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IN THE CHANCERY COURT OF JACKSON COUNTY,
MISSISSIPPIMIKE MOORE; ATTORNEY GENERAL,
EX REL: THE STATE OF MISSISSIPPI PLAINTIFFS

V. CIVIL ACTION NO. 94-1429

AMERICAN TOBACCO
COMPANY, ET AL. DEFENDANTS

DEPOSITION OF F. E. THOMPSON, JR., M.D.

Taken at the instance of the Defendants at the
Offices of Brunini, Grantham, Grover & Hewes,
1400 Trustmark Building, Jackson, Mississippi, on
October 29, 1996, beginning at 9:00 a.m.

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DR. ED THOMPSON,

having been first duly sworn, was examined and
testified as follows:

EXAMINATION BY MR. MUNSON:

Q. Good morning, Dr. Thompson. My name is
Jim Munson. I'm one of the lawyers for the
defendants in the case, "Mike Moore versus the
American Tobacco Company," and a bunch of other
defendants that's pending in the Chancery Court of
Jackson County, Mississippi.And with me is Kathleen Mullery. I'm
with Kirkland and Ellis in Chicago, a law firm in
Chicago. Kathleen Mullery is with us.
Lonnie Bailey is here, who's also a lawyer for the
defendants in the case. He's from Mississippi.A. I had gathered that y'all are not from
around here just when you spoke.Q. I'm not. I'm originally from North
Carolina. My mother says that I'm a tarhill
always. I only lived there for a year. That's
where I started out, but I ended up in Chicago.You're represented here by counsel
today, are you.MR. LEWIS: Not individually, on behalf
of the plaintiff.Q. (By Mr. Munson) But you have counsel
with you here today, Mr. Lewis?

MR. LEWIS: Thompson.

A. I'm Thompson.

Q. (By Mr. Munson) I know. Mr. Lewis is
your lawyer here today, correct?A. He is here as an attorney representing
the State, I believe.

MR. LEWIS: That's correct.

A. And that's as far as I can go. He's not
representing me personally, but I'm not,
personally, a litigant.Q. (By Mr. Munson) Correct. You're an
employee with the State of Mississippi?

A. That's correct.

Q. Fine. Have you had your deposition
taken before?

A. Yes, I have.

Q. So you're familiar with the procedures?

A. Yes.

Q. You understand that what's going to
happen here today is I'm going to ask you some
questions and, hopefully, they will be questions
that you can give us answers to. And if there's
anything that I say that you don't understand,

1 please ask me to clarify. Our object here is not
2 to have any confusion or anything else, but to
3 make things clear and simple. So I'll do my best
4 to ask clear, answerable questions, and I hope you
5 can give clear answers. But if there's a problem,
6 let's me know along the way.

7 What I'd like to do first is to ask you
8 some questions about your background.

9 MR. MUNSON: Give us a minute, okay?

10 (Off the record.)

11 A. I've got a CV.

12 Q. Do you have a copy of your CV with you?

13 A. This is a short form. It doesn't have
14 every -- every item, but it has what's
15 generally -- more of an introduction sheet that we
16 use for speaking. But I think it pretty much
17 covers it.

18 MR. MUNSON: Could you mark this as
19 Thompson Deposition Exhibit Number 1, please?
20 (Exhibit 1 marked for identification.)

21 Q. Dr. Thompson, I'm going to give back to
22 you your -- how do you pronounce that?

23 A. Curriculum vitae.

24 Q. Curriculum vitae? Is that what some
25 people would call a resume?

1 the notice of deposition.

2 Q. What I'd like to do first is just ask
3 you some questions about your resume. And start
4 off first, how old are you, Doctor?

5 A. I'm 49 years old.

6 Q. And where are you from? Where did you
7 grow up?

8 A. I grew up in Wesson, Mississippi.

9 Q. Which is where?

10 A. It's about 11 miles south of Hazlehurst
11 and nine miles north of Brookhaven.

12 Q. Which part of the State is it in?

13 A. South central.

14 Q. South central? And where did you go to
15 college?

16 A. I went to Copiah Lincoln Junior College
17 for two years and then to Millsaps College, in
18 Jackson, for two additional years.

19 Q. And Millsaps College is here in Jackson;
20 is that right?

21 A. That's correct.

22 Q. You graduated from there in 1969?

23 A. I did.

24 Q. What did you do after that?

25 A. After that, I taught high school

1 A. Uh-huh, yeah, scientific professionals
2 normally have a curriculum vitae instead of a
3 resume. It is the same thing.

4 Q. Now, you said a minute ago that this is
5 not a full curriculum vitae or resume for
6 yourself?

7 A. No, the document I showed you is just
8 one we use for convenience when people need a
9 quick rundown of my medically-related public
10 health related experience.

11 Q. What does a full resume or curriculum
12 vitae look like?

13 A. It gets down to where I went to high
14 school and how many publications I have or don't
15 have and where I taught high school chemistry for
16 several years before going to medical school. A
17 whole bunch of things that are not usually
18 relevant to what people are interested in in my
19 present capacity.

20 Q. Deposition Exhibit Number 1 -- that
21 resume is a current resume of your curriculum
22 vitae?

23 A. Right. Y'all do have a complete
24 curriculum vitae that's been provided in discovery
25 process, I believe. I think that was requested in

1 chemistry in Pensacola, Florida, for approximately
2 four years.

3 Q. Until when?

4 A. About 1973.

5 Q. And then what did you do?

6 A. At that point, I spent approximately a
7 year-and-a-half in graduate school at the
8 University of Denver.

9 Q. Studying what?

10 A. Theater.

11 Q. Theater? And that was from when, 1973
12 to 19 --

13 A. '70 -- midway through 1974 or '75.

14 Q. And that's when you got interested in
15 health issues?

16 A. That's the second time I did.

17 Q. And what happened? Did you get a
18 degree? Was it a degree program at the University
19 of Denver?

20 A. No, I was in a degree program aimed at a
21 Ph.D. in theater. But about halfway through that,
22 I elected to apply to medical school here in the
23 university -- in Mississippi for what was actually
24 the second time I had applied and wound up being
25 the second time I was accepted.

1 Q. And then what did you do?
2 A. Went to medical school here in
3 Mississippi at the University of Mississippi. The
4 School of Medicine in Jackson.
5 Q. And how long were you in medical school?
6 A. Four years.
7 Q. Four years. And you finished in medical
8 school when?
9 A. 1979.
10 Q. And then what did you do?
11 A. Interned, once again, at the University
12 Medical Center here in Jackson in the Department
13 of Obstetrics and Gynecology.
14 Q. And that was when?
15 A. That was 1979 and 1980, from July of '79
16 to June of '80.
17 Q. So that school year, you did an
18 internship in obstetrics and gynecology?
19 A. Right, that's a whole calendar year.
20 Q. What did you do after that?
21 A. At that point, I went to work at the
22 Department of Health as a county health officer.
23 Q. Department of Health in Mississippi?
24 A. That's correct.
25 Q. So you started that job when, in 1980?

1 A. 1980, in the summer.
2 Q. How long did you have that job?
3 A. Was a county health officer for
4 approximately a year-and-a-half.
5 Q. What did you do?
6 A. I provided clinical services and
7 administrative services in four county health
8 departments along the Mississippi River in east --
9 in west central Mississippi, Claiborne County,
10 Warren County, Sharkey County and Issaquena
11 County.
12 Q. And how long did you do that, again?
13 A. Approximately a year-and-a-half.
14 Q. So until when -- sometime in 1982, '81,
15 '82?
16 A. Sometime in '82. Correct.
17 Q. What did you do after that?
18 A. At that point, the Department sent me to
19 Johns Hopkins University School of Hygiene and
20 Public Health in Baltimore, where I completed a
21 course of study leading to the MPH degree, master
22 of public health.
23 Q. How long were you there?
24 A. Took a year, actually nine months of
25 actual study.

1 Q. The degree is master of public health?
2 -- A. Master of public health.
3 Q. Tell me about that, that program.
4 A. That is a terminal degree for public
5 health professionals. It is frequently attained
6 by physicians after getting the M.D. degree and
7 completing their immediate postgraduate training.
8 It is a degree aimed at training people in general
9 principles of public health.
10 There are more -- there are more
11 detailed public health degrees as well, such as
12 doctors in public health. But the master of
13 public health is the basic public health
14 credential for most public health positions.
15 Q. What sort of courses did you take in
16 that course?
17 A. General courses in the history of public
18 health, environmental health, courses in
19 epidemiology and biostatistics, courses in the
20 epidemiology of specific disease problems, as well
21 as courses in general epidemiology, courses in
22 public health and the law.
23 It is a general degree involving, at
24 least, a touch of all the major elements of public
25 health.

1 In my case, because of my professional
2 interests, I took as many courses as possible in
3 the areas of epidemiology, particularly the
4 epidemiology of communicable disease, but also
5 some in chronic disease. And there were even some
6 management courses that were taught as part of
7 that degree program.
8 Q. What do you mean by "management
9 courses"?
10 A. Courses in management.
11 Q. Business management-type courses?
12 A. Exactly, uh-huh.
13 Q. So you got that degree in 1982. Then
14 what did you do?
15 A. I returned then to the Department of
16 Health. This time in a different capacity. I say
17 returned. I never left the Department of Health.
18 I was an employee of the Department while in the
19 degree program.
20 I returned then to the central office in
21 Jackson where I directed a number of the
22 Department's disease control and prevention
23 programs primarily, at that time, in the area of
24 communicable disease.
25 --Q. When you say "directed the programs,"

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1 what exactly did you do?
2 A. Provided both administrative management
3 of the programs and medical expertise and medical
4 guidance to the programs, including some direct
5 patient consultation, occasionally seeing a
6 patient, more often than not, advising about a
7 patient.

8 Q. And you started doing that in 1982 after
9 you got your -- came back after you got the degree
10 from Johns Hopkins?

11 A. That's correct.

12 Q. How long did you do that?

13 A. I did that, more or less, continually
14 with some fluctuation, in which specific disease
15 control programs I had responsibility for, and
16 with continuing increase in the scope of that
17 responsibility up until 1993, having a couple of
18 different titles in the process. But always doing
19 largely the same thing, managing and providing
20 medical consultanthip.

21 Q. Your resume says here under present
22 physicians it says "Chief Bureau of Preventive
23 Health Services, February of '86 to February of
24 '93"?

25 A. That's correct.

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1 Q. Let's go back to 1982 after you got your
2 degree and the period between then and February of
3 '86. What did you do in that time period?

4 A. As I told you, managed, administered and
5 provided medical direction to a variety of disease
6 control programs.

7 In 1986, the functions that I was
8 carrying out, in the course of a reorganization of
9 that bureau, were placed into a separate bureau.
10 They had been half of an existing bureau. And at
11 that time, I was named director of the newly
12 created bureau.

13 Responsibilities that I had did not
14 change greatly except for the addition of the
15 responsibility for health education, home health
16 and perhaps one or two other programs.

17 So I continued in the same basic role
18 with the Department, but acquired a new
19 organizational title.

20 Q. And that was Chief Bureau of Preventive
21 Health Services?

22 A. That's correct.

23 Q. And you had that -- you had that title
24 from February of '86 to May of '93; is that right?

25 A. That's correct.

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1 Q. And the job continued pretty much the
2 same in that time period as you just described it?

3 A. Very much the same, with some changes,
4 periodically, in the exact mix of programs for
5 which I was responsible as we would reorganize, to
6 some degree, as public health organizations often
7 do.

8 Q. What are -- just an example of some of
9 the programs that you were responsible for in this
10 time period?

11 A. The general epidemiology program, which
12 dealt with essentially all diseases of public
13 health significance not covered by one of the
14 specific programs that I was responsible for.
15 Some of the specific programs, then, were
16 tuberculosis control, sexually transmitted disease
17 control. When the disease appeared, AIDS
18 prevention control, HIV and AIDS prevention and
19 control, chronic disease control at some parts of
20 that period, including hypertension and diabetes,
21 in particular, immunization largely against
22 childhood diseases, but also against some adult
23 diseases.

24 From approximately '86 or '87, it also
25 included health education and home health

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1 services.

2 Q. What are home health services?

3 A. Skilled nursing services delivered in
4 the home on the order of a physician.

5 Q. Any other programs you can think of?

6 A. During the latter part, especially, we
7 began to have a distinct program in cancer
8 control, primarily breast and cervical cancer.

9 As I said, health education, and as a
10 part of that health promotion was a part of that
11 responsibility for much of that time.

12 Environmental epidemiology is, although
13 somewhat difficult to define, that was part of the
14 general epidemiology program involving threats
15 from the environment to human health as opposed to
16 threats from within the organism, itself. And
17 that was a part of my responsibility during all
18 that time.

19 Q. You said environmental epidemiology is
20 hard to define. How would you define it?

21 A. The simple definition would be the
22 epidemiology of human illness that results from
23 contact with the environment, the external
24 environment.

25 Q. Anything else you can think of, again,

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1 in this '86 to '93 period, any programs?

2 A. I think I mentioned hypertension and
3 diabetes being a part of responsibility for a good
4 portion of that time.

5 There may well have been some other
6 specific programs that had specific names that I
7 haven't mentioned. And if they come to me, I'll
8 tell you.

9 Q. Okay. Fair enough, fair enough. Then
10 in January '93 to May '93, your resume says you
11 were Acting State Health Officer?

12 A. That's correct.

13 Q. What was that job?

14 A. In the fall of '92, Dr. Cobb announced
15 his intention to retire.

16 Q. Excuse me. Who is Dr. Cobb?

17 A. Dr. Alton Cobb was the State Health
18 Officer prior to my assuming the role. When he
19 announced his intention to retire, the Board of
20 Health asked me to served as Acting State Health
21 Officer while they selected a new State Health
22 Officer, which I agreed to do, and began doing in
23 January of 1993. I did that until May of 1993, at
24 which point I was named State Health Officer.

25 Q. What did you do as Acting State Health

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1 Officer?

2 A. Essentially the same thing that I do now
3 as State Health Officer, and that is to be the
4 Chief Executive Officer of the State Department of
5 Health, responsible for the management and
6 oversight of all its operations.

7 Q. So you're the CEO, the head of the
8 Mississippi State Department of Health?

9 A. That is correct.

10 Q. Who selects the person who has that job?

11 A. The State Board of Health.

12 Q. And the State Board of Health is made up
13 of whom?

14 A. They are an appointed body of 13 members
15 set out in state statute. All the members are
16 appointed by the Governor to staggered six-year
17 terms of office. And they are responsible for the
18 overall policy development of the State Department
19 of Health. They have the ultimate authority for
20 the Department's actions, which they exercise
21 through the Chief Executive Officer.

22 They also have rule-making and
23 regulatory authority for much of the oversight of
24 the public's health in Mississippi.

25 Q. And you've been the State Health Officer—

1 since May of '93; is that correct?

2 --A. That's correct.

3 Q. How many employees does the Mississippi
4 State Department of Health have?

5 A. We have approximately 2,800 employees.

6 Q. Can you tell us how the Mississippi
7 State Department of Health is organized, kind of
8 big picture organization?

9 A. The overall organization is that there
10 is a central office staff of several hundred,
11 which includes both administrative functions and
12 also some direct services functions such as the
13 provision of pharmacy services on a statewide
14 basis.

15 We also have 81 county health
16 departments who operate through a fluctuating
17 number of approximately 100 full-time service
18 delivery sites.

19 These 81 county health departments are
20 all directly under the control of the State
21 Department of Health. We have no independent city
22 or county health departments. The county health
23 departments are administratively organized into
24 nine public health districts, which vary from six
25 to 11 counties in number, each of which is headed

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1 by a district health officer who has an
2 administrative staff, and all of whom, like the
3 county health department staff who they supervise,
4 answer directly to the State Department of Health
5 and ultimately to the State Health Officer.

6 Q. So do the county -- if I understand this
7 correctly, there are 81 county health departments?

8 A. That's correct.

9 Q. Is there one in every county?

10 A. There are. There are two counties,
11 Sharkey and Issaquena County that, because of
12 their population size, elected to share a common
13 health department between the two. So we have 82
14 counties, but only 81 county health departments.

15 Q. Okay. And each -- if I understand this
16 correctly, each one of those 81 county health
17 departments reports to one of the nine district
18 health departments?

19 A. Right.

20 Q. Is that what they're called?

21 A. That is correct. Well, they aren't
22 actually district health departments. They're
23 district offices of the State Department of
24 Health.

25 --Q. Okay. So the county health departments

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1 report to the nine district offices. And then the
2 nine district offices report to you?

3 A. That's correct.

4 Q. What do the county health departments
5 do?

6 A. The staff in the county health
7 departments provide clinical preventive services
8 and environmental health services within that
9 county. Primarily, nursing services with some
10 physician services available. Some of the larger
11 county health departments have physician services
12 available full-time.

13 Most of the smaller county health
14 departments provide physician services only a few
15 days a week on a rotating schedule. The services
16 that they provide include maternity care, prenatal
17 care, family planning services, immunization
18 services, some diagnosis -- some screening for
19 hypertension and management of that hypertension,
20 some limited, primarily, patient education
21 services and blood sugar monitoring services for
22 persons with diabetes. They provide treatment and
23 prevention for tuberculosis, immunizations for
24 both adults and children, occasional acute care
25 for minor illnesses, more when the patient walks

1 example. Lacking an effective vaccine, we can
2 only prevent it by identifying people who have it
3 and treating them to render them noncontagious as
4 rapidly as possible. So part of the prevention of
5 TB is the treatment of cases. And we do that
6 through county health departments.

7 Q. Now, what the county health departments
8 do, is that determined by the State Department of
9 Health?

10 A. In large measure, it is.

11 Q. They're not off on their own, in large
12 part, trying to figure out what sort of programs
13 they ought to do?

14 A. No.

15 Q. But rather that the policies and
16 practices and what kinds of programs they have are
17 decided, in the main, by the Mississippi
18 Department of Health; is that correct?

19 A. That's correct.

20 Q. Now, what do these nine district offices
21 do?

22 A. Their main function is to administer the
23 activities of the county health departments. As
24 an example, in some of the districts, they have a
25 central bookkeeping system for all their counties

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1 in and it's convenient to do it. It's not a major
2 part of our operation.

3 Q. Do the county health departments have
4 hospitals of their own?

5 A. No, they do not. It's strictly an
6 outpatient operation. And the -- the clinical
7 services we provide are oriented toward prevention
8 rather than management and treatment of serious
9 illness, the exception being, particularly,
10 sexually transmitted diseases and tuberculosis.
11 We provide extensive treatment services for both
12 of those, but on an outpatient basis.

13 Q. So the county -- the county health
14 departments -- just to sum up so I'm sure I
15 understand and have it right -- basically, when
16 they provide clinical services, they're mainly
17 prevention clinical services rather than treatment
18 services; is that correct?

19 A. That is correct.

20 Q. With the exception, I think, you said in
21 a couple of areas?

22 A. In tuberculosis and sexually transmitted
23 disease control, we are still oriented toward
24 prevention, although that's accomplished by
25 treating the disease, tuberculosis being a classic

1 carried out in the district office since there's
2 not quite enough responsibility for a full-time
3 bookkeeper in each of the individual counties.

4 Likewise, they do the budgeting for
5 county health departments, a good deal of the
6 purchasing.

7 They also provide technical oversight,
8 providing some medical supervision in the person
9 of the district health officer, some nursing
10 technical supervision through both the district
11 supervising nurse and also several specialized
12 nursing consultants. And we also provide some
13 direct clinical services from the district office,
14 tuberculosis clinical control being a good
15 example. Districts all have a tuberculosis
16 control nurse, who often provides direct clinical
17 services throughout that district.

18 Q. But the principal function of the
19 district offices is administration rather than
20 providing medical services; is that right?

21 A. That is correct.

22 Q. Now, how many people -- what's the range
23 of people that are in these district offices?

24 A. It varies from approximately a dozen to
25 20 or more, depending on the number of counties

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1 that the district has, and also on some of the
2 different functions that some districts have.
3 Some districts elect to operate programs, and
4 others do not, all within the wide range of what's
5 set down by the State Department.

6 Q. Tell me what you do in your job now.

7 A. You're going to have to clarify a little
8 bit more.

9 Q. You're the State Health Officer,
10 correct?

11 A. Right.

12 Q. A what are your responsibilities in that
13 job?

14 A. As I indicated before, essentially, to
15 be the Chief Executive Officer of the State
16 Department of Health, with all that that entails.
17 I'm responsible for fiscal management, for medical
18 policy determination, for general guidance in
19 personnel issues.

20 In the more abstract sense, I'm
21 responsible for setting a tone and motivating all
22 the staff, for strategic planning, for
23 recommendations for legislation that's in the
24 public health interest, for advocacy for public
25 policy, public health education, communication of

1 with?

2 A. The Association of State and Territorial
3 Health Officials is the primary organization
4 through which state health officers, such as
5 myself, work at that level.

6 Q. And that's an organization of the heads
7 of various States' health departments around the
8 country; is that right?

9 A. Yeah. The Chief Executive Officers and
10 other administrative officers of State and
11 territorial health departments for the entire
12 United States.

13 Q. Are you -- do you take an active role in
14 that organization?

15 A. I have begun to. I've only been Chief
16 Executive Officer for about three years.

17 Prior to that, I had a very active role
18 in the Association of State and Territorial
19 Epidemiologists, or more properly the Council of
20 State and Territorial Epidemiologists, which is an
21 affiliate of the Association of State and
22 Territorial Health Officials for those persons who
23 direct disease control activities and carry out
24 epidemiology programs in the various states.

25 Q. On your resume, you have an entry here

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1 public health principles to the general
2 population, to the State's elected officials, to
3 some extent for the continuing education of our on
4 staff and especially our medical nursing staff.

5 And also have responsibilities through
6 and to national public health organizations to try
7 to help shape national public health policy in
8 ways that will be beneficial both to Mississippi's
9 population and the rest of the country's.

10 Q. On that last point, this "responsibility
11 to national public health organizations," what do
12 you mean by that?

13 A. As a part of being State Health Officer,
14 it is not only wise but necessary to participate
15 in the Association of State and Territorial Health
16 Officers, in organizations such as the American
17 Public Health Association that address public
18 health issues on a larger than a single state
19 basis, both to gain from the experience of sharing
20 with the other State's health officials and also,
21 collectively, to work in ways that can help us
22 shape the public health policy on the national
23 level in order to have the best public health
24 situation within our states.

25 Q. What sort of organizations do you work

1 that says "professional." Are these -- this is a
2 list of professional organizations that you've
3 been involved with; is that correct?

4 A. It's not exhaustive, but it's -- it
5 includes several that I have.

6 Q. The first one says "Past President
7 Mississippi Public Health Association." What is
8 that?

9 A. Mississippi Public Health Association,
10 as the name would suggest, is an organization of
11 people in Mississippi who work in the area of
12 public health or who have an interest in it.
13 Majority of the members are employees of the State
14 Department of Health since that's the largest
15 employer of public health professionals in the
16 state. But membership also includes people who
17 don't work for the Department of Health.

18 Q. You were the president of that in 1994?

19 A. That is correct.

20 Q. What does that organization do?

21 A. It is, primarily, aimed at education of
22 public health practitioners in the State,
23 including not only physicians and nurses but
24 clerical personnel, environmental staff and
25 others. It provides an opportunity for sharing of

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1 ideas, for communication between public health
2 workers and also for the development of public
3 health policy and advocacy for public health
4 policy within the State.

5 Q. The next entry is "American Public
6 Health Association, Central Medical Society,
7 Mississippi State Medical Association." What is
8 that?

9 A. Those are all organizations of which I
10 am a member. The American Public Health
11 Association is the American Public Health
12 Association. It's the largest public health
13 organization in the world. I've been a member of
14 that for a number of years. Have testified on
15 behalf of that organization before several
16 congressional committees on various occasion.

17 The Central Medical Society is one of
18 the component societies of the Mississippi State
19 Medical Association. It's a professional
20 organization for physicians. This particular one,
21 for the central Mississippi area surrounding
22 Jackson.

23 And the Mississippi State Medical
24 Association is an association of physicians in the
25 State of Mississippi. It is a component

1 State and Territorial Health Officials, I have
2 served on several committees, the most active of
3 which have been the immunization committees of
4 the -- and also to some extent the HIV committee
5 of that organization.

6 Q. What exactly does that organization do?

7 A. The Association of State and Territorial
8 Health Officials?

9 Q. Well, the Immunization and HIV
10 Committee?

11 A. That committee, like a number of other
12 committees of the Association of State and
13 Territorial Health Officials -- I'm going to
14 abbreviate that ASTHO -- A-S-T-H-O because that's
15 the common abbreviation by which it goes.

16 ASTHO has a number of committees that
17 deal with substantive issues that are of interest
18 to state and territorial health officials. The
19 ones that I found myself most interested in and
20 most able to contribute to, particularly included
21 immunization because that's a long-standing issue
22 of mine and HIV control because I have dealt with
23 that for many years in Mississippi.

24 Those committees discuss the development
25 of policy to be advocated by ASTHO, and then help

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1 organization of the American Medical Association,
2 of which I'm also a member.

3 Q. The next entry says "Past President,
4 Council of State and Territorial Epidemiologists,
5 1992." What is that organization?

6 A. The Council of State and Territorial
7 Epidemiologists is an organization of the state
8 epidemiologists and disease control directors of
9 the 50 states and the several territories. It is
10 an affiliate organization of the Association of
11 State and Territorial Health Officials. I served
12 on the executive committee while I was Director of
13 Disease Control, including the time I was Chief of
14 the Bureau of Preventive Health Services. I was
15 also the state epidemiologist in Mississippi. And
16 I served on the executive committee of the Council
17 of State and Territorial Epidemiologists for
18 approximately six years and was elected president
19 of that organization to serve in 1992, which I
20 did.

21 Q. And the next one is "Member,
22 Immunization and HIV Committees Association of
23 State and Territorial Health Officials?"

24 A. That's correct. Since becoming State
25 Health Officer and therefore becoming a member of

1 carry out the advocacy for that policy, help
2 develop, within the membership of ASTHO, some
3 consensus on those issues, sometimes explore
4 technical aspects of it in order to come to some
5 reasonable conclusion about what the organization
6 should do or what we should advocate.

7 Q. The next entry is "Member, Advisory
8 Committee on Immunization Practice U.S. Public
9 Health Service."

10 A. That is correct.

11 Q. What is that?

12 A. That is a statutorily established
13 committee that advises the Centers for Disease
14 Control, which is a unit of the United States
15 Public Health Service on public health
16 immunization practice, in general, in the United
17 States. We, in essence, set the standards for
18 childhood immunization and, to some extent, for
19 adult immunizations in the public sector for the
20 United States. That is an advisory function. It
21 has no regulatory authority. But the advice that
22 that committee gives, issued through formal
23 statements, generally shapes the immunization
24 policy of the public health service and its
25 centers or disease control.

1 Q. And finally, the last entry "Past
2 President of the American Diabetes Association,
3 Mississippi affiliate 1988 to 1990." What is
4 that?

5 A. The organization is an arm of the
6 American Diabetes Association, has affiliates in
7 every state. And the American Diabetes
8 Association is a national organization devoted to
9 education and research in diabetes aimed at both
10 preventing the complications of diabetes and,
11 ultimately, finding a cure for the disease,
12 itself, and effective treatments for the various
13 complications of the disease.

14 Q. Going back to your -- to your education,
15 you got your M.D. from the University of
16 Mississippi in 1979, correct?

17 A. That's correct.

18 Q. And then you spent a year as an intern
19 at the University of Mississippi School of
20 Medicine, '79 to '80; is that correct?

21 A. That's correct.

22 Q. Did you do anything further -- any
23 further education, medical physician education
24 after that?

25 A. In 1981 and '82, I was in a master of

1 public health program at the university -- at
2 Johns Hopkins University, School of Hygiene and
3 Public Health.

4 Q. Correct, correct. I understand that. I
5 just wondered, are you board certified?

6 A. I am.

7 Q. As?

8 A. I'm board certified in general public
9 health -- in public health in general preventive
10 medicine by the American College of Preventive
11 Medicine.

12 Q. Are you board certified in anything
13 else?

14 A. No.

15 Q. Have you practiced medicine in terms of
16 the normal sense of seeing patients and treating
17 patients and so?

18 A. Yes, yes.

19 Q. When have you done that?

20 A. That was -- that was an integral part of
21 my responsibilities with the Department of Health
22 while a county health officer. The bulk of my
23 time was spent in seeing patients.

24 Q. And that was 1982 to 1986; is that
25 correct?

1 A. No.

2 --Q. When --

3 A. That was from 1980 to 1982,
4 approximately a year-and-a-half.

5 Q. Correct. It was in that period, '80 to
6 '82 that you were the County Health Officer --

7 A. That is correct.

8 Q. -- and saw patients in that period,
9 correct?

10 A. That's right.

11 Q. Since then, have you had a medical
12 practice where you've seen patients on any sort of
13 a regular basis?

14 A. I have not seen patients on a regular
15 basis since then, although I have continued,
16 occasionally, to see patients and do some very
17 limited direct clinical activity. It's not a
18 major part of my responsibilities as an
19 administrative physician.

20 Q. Do you have hospital privileges?

21 A. I do not.

22 Q. Do you have a private practice, medical
23 practice?

24 A. No. The State Health Officer is
25 prohibited by law in Mississippi from having a

1 private practice for remuneration.

2 Q. Do you have any formal training in any
3 other certified areas of medical practice, other
4 than where you're board certified?

5 A. No.

6 Q. One last thing on your resume. It shows
7 here that you were a clinical associate professor
8 of preventive medicine, University of Mississippi
9 School of Medicine.

10 A. That's correct.

11 Q. First of all --

12 A. And that needs updating. I'm now a
13 clinical assistant professor of preventive
14 medicine at that same institution.

15 Q. The listing on your resume, clinical
16 associate professor --

17 A. Now I'm an associate. I was an
18 assistant. Takes a while to --

19 Q. When did you first have the first job,
20 whatever the title was?

21 A. That's an appointment on the teaching
22 faculty at the medical school here in Jackson. I
23 have had that appointment since sometime back in
24 the 1980s. At the time I became board certified
25 in preventive medicine, my academic rank changed

1 from clinical assistant professor to clinical
2 associate professor. And I have had one of those
3 two ranks for approximately ten years. And since
4 becoming board certified in 1991, I've been a
5 clinical associate professor.

6 Q. What -- have you taught courses at the
7 school?

8 A. Have lectured in -- as part of several
9 courses in the medical school in that capacity.

10 Q. So you haven't actually taught a course
11 yourself?

12 A. Have not had -- I have not had the
13 responsibility for the presentation of an entire
14 course. Instead, I have lectured as a part of
15 several different courses. Primarily, in sexually
16 transmitted disease control, immunization, general
17 epidemiology and, more recently, also in public
18 health in Mississippi as a general subject.

19 Q. When you -- so you give -- someone runs
20 the course at the school, sets up and teaching an
21 entire course?

22 A. Right.

23 Q. And do they invite people to come in and
24 give lectures on specific topics?

25 A. That's correct. A number of courses

1 fair amount of time.

2 -- This resume doesn't list any
3 publications by yourself -- articles or books or
4 anything that you've written, does it?

5 A. No, this is not my full resume.

6 Q. Do you have a resume that lists articles
7 and publications that you've made?

8 A. I do. I think I've had two or three,
9 maybe four minor articles published. I'm not a
10 research physician, and have not done a great deal
11 of writing for the peer review of medical
12 literature. I have a few publications that are
13 listed on my full curriculum vitae.

14 Q. Do you recall what they are?

15 A. Not off the top of my head, the exact
16 titles. But there have been some articles in the
17 State Medical Journal about HIV in Mississippi,
18 the early days of the AIDS epidemic.

19 Q. Do you recall when that was?

20 A. Sometime in the 1980s. And I'd have to
21 refer to my full curriculum vitae, which I don't
22 have with me, to tell you exactly what those
23 were.

24 Q. So you recall one article in the '80s?

25 A. I recall at least three. But I can't

1 taught in medical school are not taught by a
2 single individual lecturing for the entire
3 academic term, but by a single individual who
4 coordinates lectures from dozens, in many cases,
5 of persons who have expertise or specific
6 information on a particular part of that course.

7 Q. How many times have you lectured?

8 A. I could not give you an exact number.
9 Dozens. Probably not hundreds.

10 Q. Okay. More than 50?

11 A. Probably in the -- somewhere in the
12 neighborhood of 50. It may be more, it may be
13 less. Again, I can't be terribly specific.

14 Q. I'm not asking you to be specific. I'm
15 just curious to your best recollection. Less than
16 a hundred?

17 A. It's hard to say. It could have been
18 more than a hundred, but it also could have been
19 somewhat less. Again, it's not hundreds of times,
20 but it may have been a hundred. It also may have
21 been 50.

22 Q. And you've been doing this since when,
23 again?

24 A. Sometime in the 1980s.

25 Q. Sometime in the 1980s? So it's been a

1 recall the titles of all of them. One of them
2 dealt with an aspect of chronic disease. Two of
3 them dealt with aspects of communicable disease.
4 One of them may have been an immunization related
5 article, but I'm not sure.

6 There have also been some publications
7 on which I have been a coauthor. But I can't
8 remember, without referring directly to my
9 curriculum vitae, what those were.

10 Q. How many of those --

11 A. None of them were in major medical
12 research journals.

13 Q. So just to go back, do you recall about
14 three that you wrote yourself that were published
15 in state Mississippi publications?

16 A. About three that were published in the
17 State Medical Journal of which I was either a
18 principal author or a major coauthor.

19 Q. And then you remember some others where
20 you were -- some other articles where you were,
21 what, a contributing author, not a major coauthor?

22 A. Some of those, and also a number of
23 presentations that I have made to various national
24 and regional meetings have then been published as
25 the proceedings of that meeting. And quite

1 frankly, I don't even know how many of those there
2 are. It's not an extensive number. But there
3 have been several of those, particularly in the
4 area of immunization that I know wound up being
5 published, although not in peer reviewed journals.

6 Q. Do you recall the subject matters of any
7 of those?

8 A. No, some of them dealt with
9 immunization, various aspects of immunization. I
10 think some have dealt with sexually transmitted
11 disease control.

12 Q. Uh-huh.

13 A. But again, it's not an extensive list.
14 I'm simply not a researcher, and don't attempt to
15 publish a great deal of material.

16 Q. I was just trying to find out what it
17 was that was out there.

18 A. I'm trying to save you the trouble of
19 figuring out how much it was. There has not been
20 a lot.

21 Q. Right. Are there any publications that
22 you are working on now, articles, speeches or
23 anything that you've got underway now?

24 A. The only thing that I'm actively working
25 on right now or will be actively working on is a

1 curriculum vitae?

2 A. Be glad to.

3 Q. Which I don't -- I just don't have a
4 copy as I sit here right now. If we've got it
5 somewhere, I suppose I could find it. But it will
6 probably be a whole lot easier for all of us if
7 you could just bring a copy?

8 A. It's been provided to y'all. But I know
9 y'all get a lot of materials. So I'll just bring
10 a copy with me on Friday.

11 Q. Yeah. I don't mean to suggest that it
12 hasn't been provided, but it just -- in the real
13 world, it might be easier.

14 A. We can get it today, if it would be
15 helpful.

16 Q. Friday will be fine. Friday will be
17 fine. That's no problem. I tell you what, we've
18 been going for almost an hour here. Let's stop
19 for a couple of minutes and take a five minute
20 break for the court reporter's sake, if nobody
21 else's.

22 (A short break was taken.)

23 Q. Dr. Thompson, what I'd like to do now is
24 to ask you some different kinds of questions about
25 the Mississippi State Department of Health. And

1 presentation on Public Health Leadership that I'll
2 be making to the American Public Health
3 Association at its annual meeting in November in
4 New York.

5 Q. Is this a paper or a speech?

6 A. It's going to be a speech.

7 Q. And the subject matter of it will be --

8 A. Public Health Leadership, how do you
9 lead a public health organization?

10 Q. And you're going to make that speech to,
11 to whom?

12 A. To members of the American Public Health
13 Association. They have literally hundreds of
14 sessions, of which this is one. It is an invited
15 presentation on the subject of Public Health
16 Leadership. I am one of the two presenters, and
17 I -- the other presenter is, I believe, the --
18 either director or immediate past director of the
19 Los Angeles County Health Department.

20 (Off the record.)

21 Q. Could I ask, Doctor, could you -- we're
22 going to resume this deposition on Friday, I
23 think, as you know. We've got a day today and
24 then a day on Friday. And I wondered if you could
25 bring with you, on Friday, your full resume,

1 would you mark that as Thompson Deposition Exhibit
2 Number 2?

3 (Exhibit 2 marked for identification.)

4 Q. Here's Deposition Exhibit Number 2. And
5 here's a copy for counsel. Would you take a
6 minute to look at this, Dr. Thompson?

7 A. (Examining.) All right.

8 Q. Dr. Thompson, this document, Deposition
9 Exhibit Number 2 is a June 7, 1993, letter from
10 yourself to a Mr. Edwin L. Dixon, who is Grants
11 Management Officer of the Centers for Disease
12 Control and Prevention in Atlanta, Georgia; is
13 that correct?

14 A. That's correct.

15 Q. The first sentence of the letter reads,
16 "The Mississippi State Department of Health is
17 submitting the enclosed proposal for a cooperative
18 agreement with the Centers for Disease Control and
19 Prevention. Specifically, we are applying for the
20 1993 capacity building for core components of
21 tobacco prevention and control programs for a
22 planning grant." Correct?

23 A. That's what it says, yes.

24 Q. The Centers for Disease Control and
25 Prevention in Atlanta, Georgia, that's a part of

1 the federal government; is it not?

2 A. That's correct.

3 Q. And this letter that you sent is an

4 application for a planning grant; is that correct?

5 A. That's correct.

6 Q. So in this letter, you are asking -- the

7 Mississippi State Department of Health is asking

8 for some money from the federal government,

9 correct?

10 A. That is correct.

11 Q. The last paragraph of the letter you

12 say, "Without hesitation, the Mississippi State

13 Department of Health endorses this proposal and is

14 prepared to provide the direction and leadership

15 necessary for its success." Correct?

16 A. That is correct.

17 Q. Behind the letter, the cover letter,

18 there are first a couple of letters, one from you

19 to a Ms. Cathy Mallett, Department of Finance and

20 Administration, Office of Federal Grant Management

21 and Reporting, correct?

22 A. That is correct.

23 Q. And then there's a second letter, the

24 same June 7, 1993, date to the Mississippi -- to a

25 Mr. Harold Armstrong in the Mississippi State

1 Department of Health, correct?

2 A. Correct.

3 Q. And then after that, there is 86 or so

4 pages of -- is it fair to say this is the grant

5 application from the Mississippi State Department

6 of Health to the Centers for Disease Control?

7 A. That's correct.

8 Q. Did you prepare this grant application

9 yourself?

10 A. No, I did not.

11 Q. People who work for you prepared it?

12 A. That is right.

13 Q. Did you review it before it went in?

14 A. I did.

15 Q. And the intention, when you wrote this,

16 was to make accurate statements, correct?

17 A. That's correct.

18 Q. I want to ask you some questions about

19 this grant application today. And the first

20 question I want to ask is: If you'd look at page

21 46. Do you have that?

22 A. I do.

23 Q. On page 46, there's a heading at the top

24 of the page, item D, "Coordination and

25 Collaboration." Do you see that?

1 A. I do.

2 Q. And then under that a number 1 which

3 says, "Existing and proposed collaboration with

4 CDC and others." Do you see that?

5 A. I do.

6 Q. "CDC" there means the Center for Disease

7 Control, correct?

8 A. That's correct.

9 Q. And then a paragraph down on the page,

10 there's an entry that says CDC that's underscored,

11 and then after that, it reads, "The Office of

12 Health Promotion and Education." That's the

13 Office of Health Promotion and Education of the

14 Mississippi Department of Health; is it not?

15 A. That's correct.

16 Q. So it says, "The Office of Health

17 Promotion and Education has a history of

18 collaboration with the office on smoking and

19 health at the CDC, tobacco prevention control and

20 regional activities. This relationship has proven

21 to be a vital component of the tobacco prevention

22 program of this office. It will be essential to

23 continue to collaborate with CDC through the

24 following methods." Do you see that?

25 A. I do.

1 Q. Is it correct that through relationship

2 the Mississippi Department of Health had with the

3 Centers for Disease Control that there was a lot

4 of information on tobacco and health that was

5 available to the Mississippi Department of Health

6 through the Centers for Disease Control?

7 A. That's correct.

8 Q. Look at this same grant application at

9 page 6. And again, we're looking at the June 7,

10 1993, grant application from the Mississippi

11 Department of Health to the Centers for Disease

12 Control. And on page 6 of the grant application,

13 there is an entry that says, "Clearing House." Do

14 you see that?

15 A. I do.

16 Q. And it reads, "The Office of Health

17 Promotion and Education houses a health promotion

18 clearing house from which Mississippi State

19 Department of Health staff and personnel from

20 other agencies, schools and businesses obtain

21 pertinent health education materials." Do you see

22 that?

23 A. I do.

24 Q. And then skip down a paragraph. It

25 reads, "The Health Promotion Clearing House is

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1 recognized by other agencies and businesses as a
2 resource center for tobacco control and prevention
3 materials;" is that correct?

4 A. It's correct that it says that. I hope
5 that's correct. But that doesn't mean it's
6 recognized as one.

7 Q. Do you believe it was recognized?

8 A. I would hope so.

9 MR. MUNSON: Would you mark that as
10 number 3, please?

11 (Exhibit 3 marked for identification.)

12 Q. Let me show you what I've marked as
13 Deposition Exhibit Number 3. And I'm passing a
14 copy over to your counsel. Take a minute to
15 review this, please.

16 A. (Examining.) I'm ready when you are.
17 I'm just marveling at this list of publications.

18 Q. Thompson Deposition Exhibit Number 3 is
19 a letter or a memorandum dated October 4, 1948, on
20 Mississippi State Board of Health stationery. It
21 lists Felix J. Underwood, M.D., Executive
22 Director, Jackson, Mississippi. It's from it
23 looks like E. Louise Williams, librarian, to each
24 and every public health worker regarding basic
25 books and journals, correct?

1 A. That's correct. Thirty-five cents for
2 "Control of Communicable Diseases," that's
3 amazing.

4 Q. On page 3, there's a list for
5 bacteriology and laboratory diagnosis, vital
6 statistics, health education, school of health,
7 mental health, correct?

8 A. That's correct.

9 Q. And then after that, there's a series of
10 other subject matters and other lists of -- of
11 publications, correct?

12 A. That's correct.

13 Q. On the last page of the document, page
14 6, there is an entry called "Medical and Public
15 Health Journals." Do you see that?

16 A. I do.

17 Q. And the first paragraph under that
18 reads, "Journals are among the most essential
19 tools in the carrying out of any scientific
20 undertaking, public health being no exception.
21 And why is it the county health department that
22 has the foresight to preserve its journals making
23 them easily accessible to all personnel and
24 encouraging their use." Do you see that language?

25 A. I do.

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1 A. That's what it appears to be, yes.

2 Q. It's dated October 4, 1948, correct?

3 A. Yes, it is.

4 Q. The last sentence of the letter reads,
5 "Books which each local health department may
6 borrow from the State Board of Health library or
7 should have on its own shelves are included in the
8 list which follows. List enclosed." Do you see
9 that language?

10 A. I do.

11 Q. And then the -- the document goes on and
12 has a number of lists of publications behind it;
13 does it not?

14 A. Uh-huh, it does.

15 Q. There's a list on the first page for
16 public health administration, correct?

17 A. There is. I wish I could get these
18 books for this price now.

19 Q. Yeah, they do look pretty reasonable,
20 don't they. There's another list for sanitation
21 entomology, correct?

22 A. That's correct.

23 Q. And on page 2 a list for "Communicable
24 Disease Control," "Tuberculosis," "Public Health
25 Nursing," correct?

1 Q. Then the next paragraph down it reads,
2 "The following journals are indispensable to the
3 work of the local health department." And then
4 there's a list of 11 journals?

5 A. That's correct.

6 Q. And that list includes, at number 2, the
7 "American Journal of Public Health," correct?

8 A. That's correct.

9 Q. And at number 3, the "Journal of the
10 American Medical Association?"

11 A. That's correct.

12 Q. And at number 10, "Mississippi Doctor,"
13 correct?

14 A. That's correct.

15 Q. So this list contains some of the major
16 medical and public health journals that were
17 published in the country in 1948; does it not?

18 A. It does.

19 Q. Does the -- this looks -- does this
20 look, to you, like it's a pretty substantial
21 library in the public health area as of 1948?

22 A. It does to me.

23 Q. Does the Mississippi State Department of
24 Health still have a substantial public health
25 library?

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1 A. No, we do not.

2 Q. Do you know what happened to the
3 substantial public health library that the
4 Department had?

5 A. Bits and pieces of what happened. I
6 don't know what happened to the, apparently,
7 county public health libraries that are described
8 in this document.

9 I know that sometime in about the
10 mid-'80s the Department of Health still had -- and
11 I'm talking from observation, because it was -- I
12 wasn't involved in the operation of the library --
13 still had a library located in the Underwood
14 Building which contained a lot of medical books
15 and collections of journals, some of which
16 probably included some of the 1948 documents that
17 are listed in this list.

18 Q. Uh-huh.

19 A. The library was, at that time, little
20 used because we weren't able to purchase
21 frequently and rapidly enough new textbooks to
22 keep up with the increasing rate of medical
23 publication. We were not able to maintain enough
24 files of the major journals. And it simply was no
25 longer a good current reference, and it wasn't

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1 used very much at all. So at some point during
2 the '80s, a decision was made to discontinue
3 trying to maintain a library at all.

4 That library -- the books -- those that
5 had no use at all were disposed of. Those that
6 had historical value, many of them were
7 preserved. A lot of the documents were just plain
8 out-of-date. So they were discarded. Some of the
9 documents were dispersed to various departments
10 within the State Department of Health that might
11 have use for them. And the space was taken over
12 for other uses. We haven't maintained a central
13 library since then.

14 Q. So the State -- in a nutshell, the State
15 Department of Health had its own library until
16 sometime in the mid-1980s; is that correct?

17 A. Yeah, mid to early '80s. I'm not sure
18 exactly when it was discontinued.

19 Q. It had a library -- its own library up
20 until the '80s?

21 A. That's correct.

22 Q. And then sometime in the '80s, its own
23 library was discontinued; is that correct?

24 A. That is correct.

25 MR. MUNSON: Would you mark this as 4? --

1 (Exhibit 4 marked for identification.)

2 _Q. Dr. Thompson, I've handed you what's
3 been marked as Exhibit Number 4.

4 A. May I ask you a question beforehand?
5 Will these attachments be part of the printed copy
6 of the deposition that I get?

7 Q. Yes.

8 A. Good. This is a fascinating list. I
9 want to be sure I get a copy.

10 Q. You'll have a copy. The way it works is
11 the court reporter marks these exhibits with a
12 little sticky that she puts on there and marks the
13 number. And then those are kept with the original
14 transcript of the deposition. And when you read
15 the deposition, after it's taken to see if there
16 are any things that need to be corrected, you'll
17 have copies of the actual deposition exhibits in
18 front of you. So you can read them at your
19 pleasure.

20 A. (Examining.) All right.

21 Q. Have you had a chance to look at Exhibit
22 4, Dr. Thompson?

23 A. Yes, I have.

24 Q. What I'd like to do, starting with this
25 document, is to ask you some questions about

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1 Mississippi Department of Health and awareness --
2 and it's awareness of tobacco and health issues.

3 Exhibit Number 4 is a document entitled
4 "Mississippi Morbidity Report." It's dated
5 February, 1987 in the upper right-hand corner. Do
6 you see that?

7 A. I do.

8 Q. And at the very top of the page, it
9 says, "Mississippi State Department of Health."
10 Do you see that?

11 A. I do.

12 Q. Is this -- this document, I take it, is
13 a publication of the Mississippi State Department
14 of Health, correct?

15 A. Yes, it is.

16 Q. The title of this document is "Health
17 Consequences of Involuntary Smoking." Do you see
18 that?

19 A. Yes, I do.

20 Q. In the left-hand column about two-thirds
21 of the way down the page, there is an entry that
22 says, "1986 Surgeon General's Report, Health
23 Consequences of Involuntary Smoking." Do you see
24 that?

25 --A. Yes, I do. --

1 Q. And then under that -- and again, this
2 is a publication by the Mississippi State
3 Department of Health, correct?

4 A. That's correct.

5 Q. And under that, there's a sentence that
6 says, "Inhalation of tobacco smoke during active
7 cigarette smoking remains the largest single
8 preventable cause of death and disability in the
9 United States," correct?

10 A. That's what it says, yes.

11 Q. And that was a statement of the
12 Mississippi Department of Health in February,
13 1987, correct?

14 A. No, that's not correct.

15 Q. What I just -- what I just read you was
16 written and published by the Mississippi State
17 Department of Health; was it not?

18 A. No, it was not. It was published by the
19 State Department of Health. But if you'll note in
20 that same column in the second paragraph, there's
21 a note from the editor indicating that this text
22 was reprinted entirely from the federal
23 publication, the "Morbidity and Mortality Weekly
24 Report" or "MMWR." And we reprinted the text of
25 that article in the Mississippi Morbidity Report.

1 scholarly activities that go on in peer reviewed
2 journals. It's aimed at rapid publication of
3 public health information.

4 Q. The text goes on, "These summary
5 conclusions are reprinted herewith in toto." That
6 means -- let me start again.

7 A. I'm sorry. I attempted to get you a
8 copy of my complete curriculum vitae. And in
9 error, they sent the same one we've already got.

10 Q. No problem. We'll get it. Thank you
11 for trying. Let's go back. We're talking about
12 Deposition Exhibit Number 4. And there's a
13 sentence that reads, continuing from where we
14 were, "These summary conclusions are reprinted
15 herewith in toto in order that all physicians in
16 the State may have access to them," correct?

17 A. That's correct.

18 Q. "In toto" means in their totality,
19 completely?

20 A. Right. The summary is reprinted in its
21 entirety.

22 Q. Correct. It says, "These summary
23 conclusions are reprinted herewith in toto." That
24 just means that the summary conclusions are
25 reprinted completely, correct?

1 So we published it, but we did not write it.

2 Q. Fair enough. Fair enough. What you did
3 here, and what you're pointing to is at the -- in
4 the left-hand column in the second paragraph; is
5 that correct?

6 A. That is correct.

7 Q. There is a sentence that says -- well,
8 the whole paragraph reads, "On December 16, 1986,
9 the Surgeon General of the United States gave
10 emphasis to this evidence by the publication of
11 the 18th report from his office on the health
12 consequences of smoking entitled, 'The Health
13 Consequences of Involuntary Smoking.' This 332
14 page volume has been summarized by the CDC in
15 November, 1986 edition of the MMWR." What's the
16 MMWR?

17 A. That is the "Morbidity and Mortality
18 Weekly Report." It's a weekly publication of the
19 Centers for Disease Control, aimed primarily at
20 public health practitioners. It discusses -- it
21 both contains statistics of reported diseases and
22 also articles summarizing issues of public health
23 significance.

24 It is intended to cover things of a
25 fairly breaking news nature as opposed to the more

1 A. That's correct.

2 Q. I'm just trying to define "in toto,"
3 make sure that I've got it right. That's Latin,
4 isn't it?

5 A. I trust that it is.

6 Q. And then your point is that what's
7 published thereafter is a summary that was written
8 by the Centers for Disease Control, correct?

9 A. That's correct. Down to, on page 2, at
10 the conclusion of the third paragraph, there's a
11 small note indicating, "Reported by the Office on
12 Smoking and Health, Center for Health Promotion
13 and Education, CDC."

14 At that point -- that indicates where
15 that text came from, again. And then there's an
16 editorial note that begins there which was written
17 by staff of the State Department of Health.

18 Q. So let's go back to the sentence on the
19 first page of Exhibit 4, on the left-hand column
20 that reads, "Inhalation of tobacco smoke during
21 active cigarette smoking remains the largest
22 single preventable cause of death and disability
23 in the United States." Do you see that statement?

24 A. I do.

25 Q. Now, that statement was written by the

1 Centers for Disease Control; is that correct?

2 A. It was either written by the Centers for
3 Disease Control or quoted directly by the Centers
4 for Disease Control from the 1986 Surgeon
5 General's report. And I can't tell you which of
6 those two it was.

7 Q. Correct. But it's a statement that the
8 Mississippi State Department of Health was aware
9 of in February of 1987, correct?

10 A. That's correct.

11 Q. The Mississippi Department of Health in
12 Exhibit Number 4, Mississippi Morbidity Report,
13 published that statement, correct?

14 A. That is correct.

15 MR. MUNSON: Would you mark this,
16 please, as Exhibit 5?

17 (Exhibit 5 marked for identification.)

18 A. (Examining.)

19 Q. Have you finished?

20 A. Yes, I have.

21 Q. Thanks. Exhibit 5 is a two-page
22 document. And on the first page at the top it
23 says, "Mississippi State Department of Health,
24 Health Risk Appraisal," correct?

25 A. That's correct.

1 at a higher risk than nonsmokers for," and then
2 there's a list of items next to little dots. Do
3 you see that?

4 A. I do.

5 Q. So, in total it reads, "Smokers are at a
6 higher risk than nonsmokers for lung cancer,
7 cancers of the mouth, bladder, kidney, pancreas,
8 and other organs, heart attack. Smoking is the
9 leading cause of heart disease for men under 50
10 years of age, high blood pressure, smoke,
11 miscarriage or a stillborn or low birth weight
12 baby;" is that correct?

13 A. Yes. That's what it reads.

14 Q. And the Mississippi Department of Health
15 wrote this in February of 1988, correct?

16 A. More correctly, they adapted it from the
17 Arizona Department of Health, which means we
18 probably took most of the language directly from
19 that Arizona document and made whatever
20 modifications were necessary to make it fit
21 Mississippi.

22 Q. Correct. The list of things that I just
23 read, "Smokers, smokers are at a higher risk than
24 nonsmokers for these various items." That was
25 something that the Mississippi Department of

1 Q. And on the second page at the bottom it
2 says, "Produced by Mississippi State Department of
3 Health," the address, Jackson, Mississippi. And
4 it's dated February, 1988, correct?

5 A. That's correct.

6 Q. Now, it also says, "Adapted from an
7 Arizona Department of Health Services
8 publication;" does it not?

9 A. Yes, it does.

10 Q. I take it, then, this is a -- this is a
11 document produced by the Mississippi State
12 Department of Health, correct?

13 A. That's correct.

14 Q. And on the first page of the document,
15 there's a heading that says "Smoking." Do you see
16 that?

17 A. I do.

18 Q. And another heading that says "The
19 Facts." Do you see that?

20 A. Yes, I do.

21 Q. And another heading that says "The
22 Risks." Do you see that?

23 A. I do.

24 Q. Under the entry, "The Risks," it says,
25 beginning with the second sentence, "Smokers are

1 Health was aware of in February of 1988, correct?

2 A. Certainly.

3 Q. This document, Health Risk Appraisal, it
4 doesn't show, on its face, exactly how it was to
5 be used. Was this something that was passed out
6 to the public? Do you know?

7 A. I don't know. Judging from its
8 appearance, I would probably guess that that was
9 its main use. The language in it appears to be of
10 a reading level that would be intended for the
11 general public. It certainly does not appear to
12 be something that was intended for a professional
13 audience.

14 Q. So it looks like it was something that
15 was intended to be distributed to the general
16 public in Mississippi, correct?

17 A. It looks like that to me. Yes.

18 Q. Do you know if it was or not?

19 A. I don't know for certain. I would
20 assume that it was.

21 Q. You don't have any reason to believe
22 that it wasn't?

23 A. No, I don't.

24 Q. Is this the kind of -- of health risk
25 appraisal that the Mississippi Department of

1 Health produced and then sent to the county health
2 departments for general distribution?
3 A. I can only — this is conjecture. It
4 looks like the sort of thing that we probably
5 would have distributed through county health
6 departments in addition to any other way that we
7 may have distributed it. But I can't say, for
8 sure, that this particular document went through
9 county health departments to the public as opposed
10 to going directly to the public by some other
11 route.

12 Q. Does it look like something that was
13 written and produced with the intention to have it
14 being given as broad circulation as possible in
15 Mississippi by the Mississippi Department of
16 Health?

17 A. Yes, it does look like something of that
18 nature.

19 Q. You don't have any reason to believe
20 that this wasn't given wide distribution by the
21 Mississippi Department of Health, do you?

22 A. No, I do not.

23 Q. I'm going to give you next what will be
24 marked as Thompson Deposition Exhibit Number 6.
25 And if you could take a minute and review that.

1 Q. And the MPH stands for master of public
2 health?

3 A. Yes, it does.

4 Q. Ellen Shea Jones was with the
5 Mississippi Department of Public Health, correct?

6 A. That's correct.

7 Q. The other two, were they also with the
8 Mississippi Department of Public Health?

9 A. One, Bruce Bracken was and is an
10 environmental epidemiologist with the Mississippi
11 State Department of Health.

12 David Thomas, listed as first author of
13 the article, was, at that time, on the staff of
14 the University of Mississippi School of Medicine.
15 He was not an employee of the State Department of
16 Health.

17 Q. So three of the four of the authors were
18 employees of the State Department of Health; is
19 that correct?

20 A. That's correct.

21 Q. And the four of you wrote this article
22 together; is that correct?

23 A. That's correct.

24 Q. Look at page 133 of this article, which
25 is the third page in. Do you see that?

1 (Exhibit 6 marked for identification.)

2 A. (Examining.) All right. I've scanned
3 over that.

4 Q. Pardon me?

5 A. I have scanned over that.

6 Q. Thank you. Exhibit 6 is a five-page
7 document. And on the first page at the top it
8 says, "Journal of the Mississippi State Medical
9 Association, May, 1988." Was this an article
10 published in the Journal of the Mississippi State
11 Medical Association in May, 1988?

12 A. Yes, it was.

13 Q. And it is entitled, "A Burning Issue:
14 Attitudes Towards Environmental Tobacco Smoke,"
15 correct?

16 A. That's correct.

17 Q. And then it lists four authors,
18 David Thomas, F. E. Thompson, Jr., Bruce T.
19 Bracken, and Ellen Shea Jones; is that correct?

20 A. That's correct.

21 Q. And the F. E. Thompson, Jr., there is
22 you; is it not?

23 A. Yes.

24 Q. And the M.D. stands for medical doctor?

25 A. Yes, it does.

1 A. Yes, I do.

2 Q. In the left-hand column, there is an
3 entry that says, "Discussion" in dark print. And
4 then a paragraph down from that it reads, "The
5 health hazards of smoking are well documented with
6 increases in mortality and morbidity from coronary
7 artery disease, peripheral vascular disease,
8 carcinoma of the lung, larynx, oral cavity, the
9 esophagus, bladder and pancreas, chronic lung
10 disease, dental disease, and harmful effects on
11 fetal development;" is that correct?

12 A. Yes, it is.

13 Q. And when this article was published in
14 1988, you were aware of those health hazards,
15 correct?

16 A. Yes, I was.

17 Q. Was this article written by the three of
18 you who were with the Mississippi Department of
19 Health in your official capacities in the
20 Mississippi Department of Health? Was it part of
21 your job to write this article?

22 A. Yes, it was part of our job. The
23 principal author, as you see listed there, was
24 Dr. Thomas, and he did the bulk of the writing.
25 The other three authors listed there, including

1 myself, contributed to it. And in all three of
2 our cases, it was in our official capacity as
3 members of the staff of the State Department of
4 Health.

5 Q. And you agreed with everything in the
6 article, correct, because you --

7 A. I'd have to go back and read every word
8 of it to say, for sure, I agreed with everything
9 in it. I was willing to accept as reasonably
10 defensible everything in it. But since I was not
11 the principal author, I can't say that I
12 absolutely agreed that everything in there was
13 said exactly the way that I'd like to see it,
14 because I wasn't the sole author. I had to reach
15 a compromise with other authors.

16 Q. But when you agreed to have yourself
17 listed as an author of this article in the
18 Mississippi State Medical Association, you must
19 have believed, at the time, there wasn't anything
20 in the article that was wrong; isn't that correct?

21 A. That is correct. I believe that
22 everything in the article was as nearly correct as
23 it could be made with the current state of medical
24 knowledge.

25 Q. You wouldn't put your name to an article

1 October, 1988, correct?

2 A. That's correct.

3 Q. And at the top of the page, on the first
4 page it says, "Mississippi Department of Health,"
5 correct?

6 A. That is correct.

7 Q. And this is a report of the Mississippi
8 Department of Health, correct?

9 A. That's correct.

10 Q. What does "morbidity" mean?

11 A. Morbidity means any adverse health
12 event.

13 Q. Does it mean --

14 A. In layman's terms it means getting sick
15 or hurt.

16 Q. So it's a report on illness in
17 Mississippi; is that correct? Sickness?

18 A. Illness and injury. Any cause of ill
19 health in Mississippi. Or, more properly, any
20 resulting ill health from any cause.

21 Q. So it's a report on ill health in
22 Mississippi; is that fair?

23 A. Correct. Yes.

24 Q. The document is -- the title of this
25 issue of "The Mississippi Morbidity Report" at the

1 that had an outright falsehood in it, would you?

2 A. Not knowingly.

3 Q. And you read this article before it was
4 published; did you not?

5 A. I did.

6 MR. MUNSON: Ms. Reporter, would you
7 mark this as Number 7, please?

8 (Exhibit 7 marked for identification.)

9 Q. Would you take a look at Exhibit 7 for a
10 moment, please?

11 A. (Examining.) I've reviewed it, except
12 that I can't -- I'm not able to read the X axis
13 labels on the figures on page 2 because of the
14 copy.

15 Q. I apologize for the quality of the
16 copy. This, unfortunately, is the best we had.
17 But what I'll do is I'll promise not to ask you
18 any questions about that axis if they're not
19 legible, how's that?

20 A. Fair enough.

21 Q. Okay. You've had a chance to look at
22 Exhibit Number 7?

23 A. Yes, I have.

24 Q. Exhibit 7 is a document entitled
25 "Mississippi Morbidity Report," dated

1 top of the page is "Smoking and Its Cost to
2 Mississippi." Do you see that?

3 A. Yes, I do.

4 Q. This is written by, is it, Nita Gunter?

5 A. That's correct.

6 Q. Who is listed as Director of Public
7 Health Statistics, Bureau of Information
8 Resources, Mississippi Department of Health.
9 That's somebody who was with the Mississippi
10 Department of Health in October, 1988?

11 A. Yes, it is.

12 Q. Is that person still there?

13 A. Yes, she is.

14 Q. In the second paragraph of this
15 document, the first sentence reads, "For
16 Mississippi the total health and economic cost of
17 smoking in 1985 are estimated to be more than 500
18 million dollars." Do you see that?

19 A. Yes, I do.

20 Q. And then in the next paragraph, the
21 first sentence reads, "The Mississippi costs were
22 calculated from death, personal health care
23 expenditures, and smoking status data for the
24 state by using SAMMEC computer software developed
25 by James M. Schultz of the Minnesota Department of

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1 Health's Center for Nonsmoking and Health." Is
2 that correct?
3 A. Yes. That's what it says.
4 Q. Now, I take it that in this publication
5 of the Mississippi Morbidity Report, the
6 Mississippi Department of Health was attempting to
7 calculate the costs of the health and economic
8 costs of smoking in Mississippi in 1985; is that
9 correct?
10 A. That appears to be what the article
11 centers around. Yes.
12 Q. And this was done in 1988, correct?
13 That is the date of the publication is 1988,
14 correct?
15 A. Yes, that's correct.
16 Q. Let's stay on this Exhibit Number 7 for
17 a second. I have a couple of other questions on
18 this. In the language that I just read, this
19 SAMMEC computer software, do you see that?
20 A. Yes, I do.
21 Q. This article says that the Mississippi
22 Department of Health -- let me be more precise.
23 The article says that, "The SAMMEC computer
24 software was used to calculate Mississippi costs;"
25 is that correct?

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1 A. That's what it says. Yes.
2 Q. Do you know who used the SAMMEC computer
3 software to do that? Who in the Mississippi
4 Department of Health?
5 A. I would conclude from the authorship of
6 this article that it was done by Nita Gunter
7 and/or members of her staff.
8 Q. Is Nita Gunter still with the
9 Mississippi Department of Health?
10 A. Yes, she is.
11 Q. What is her job now?
12 A. She still has the same job that has
13 listed in this 1988 publication, although the
14 title has changed slightly since the Bureau of
15 Information Resources no longer exists, and the
16 vital statistics or Public Health Statistics unit
17 has been moved into a different unit. But
18 otherwise, her job is still the same. She still
19 directs the vital statistics unit of the State
20 Department of Health.
21 Q. Do you know if this sort of a
22 calculation using the SAMMEC computer software has
23 been done since 1988?
24 A. I don't know whether it has or not. It
25 may have been. I don't have direct knowledge that

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1 it has. But I also don't have direct knowledge
2 that it has not.
3 Q. Do you know, is Nita Gunter the person
4 to ask that question?
5 A. She certainly might have the answer.
6 Q. Do you know -- do you have any idea
7 where the records are of these computations that
8 are referred to in this article, where those are
9 kept?
10 A. I don't know personally. What little I
11 do know about this indicates that there probably
12 are not records in the usual sense, anymore than
13 there are records of the computation that an
14 adding machine makes, because this is a computer
15 software program into which numbers were inserted
16 specific to Mississippi. And then it performed
17 the calculations. Those would have been
18 electronically, rather than on paper. So I
19 wouldn't expect there would be extensive records
20 of calculations themselves since they were carried
21 out by the computer.
22 Q. But there can be records of what was --
23 of what was done?
24 A. There should be. Yes.
25 Q. There could be records of the result.

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1 There could be records of the data that was put
2 in, for example, correct?
3 A. Yes, there should be.
4 Q. Do you have any reason to believe that
5 those records don't exist now?
6 A. I don't have any specific reason to
7 believe that they don't exist. But I also have
8 reason to believe that it is possible that they do
9 not. Because this being some several years ago,
10 the records of the calculations or the information
11 incidental to the carrying out of these
12 calculations may have been considered no longer
13 useful and discarded even as soon as the
14 calculations were completed.
15 So although there certainly should be
16 some written record of the results of those
17 calculations, as this article represents one such
18 example, I don't know for sure that the original
19 papers, attendant on the calculation, would have
20 been preserved or not.
21 Q. So the short answer is you don't know if
22 these records exist or not?
23 A. That's correct.
24 Q. Have you ever seen the document
25 preservation order in this case, in this lawsuit?

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1 I'll step back.

2 A. What do you mean by "document
3 preservation order?"

4 Q. In this case there is an order that
5 requires the party to the case to preserve
6 documents that are relevant to the issues in the
7 case. My question is very simple: Have you ever
8 seen such an order?

9 A. I assume that I have, but I can't recall
10 having seen it to the point of being able to say I
11 am sure I have seen it. I suspect that I have.

12 Q. In other words, you're not sure if
13 you've seen it or not, correct?

14 A. That is correct.

15 Q. Just -- let's go back to -- still on
16 Exhibit Number 7 for a second which is the
17 October, 1988 Mississippi Morbidity Report
18 entitled "Smoking and Its Cost to Mississippi."

19 It's correct, is it not, that at least
20 as early as October of 1988, the Mississippi
21 Department of Health was attempting to calculate
22 the costs to Mississippi, the total health and
23 economic costs of smoking to the State of
24 Mississippi, correct?

25 A. Yes, that's correct.

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1 Q. Let's go back for a minute to
2 Exhibit 4. Do you still have that around?

3 A. I do.

4 Q. Exhibit 4, again, is the Mississippi
5 Morbidity Report dated February, 1987, published
6 by the Mississippi State Department of Health,
7 correct?

8 A. That is correct.

9 Q. It's entitled, "Health Consequences of
10 Involuntary Smoking," correct?

11 A. That's correct.

12 Q. At the top of the page, the first column
13 it reads, "In recent years there's been mounting
14 evidence to support the premise that cigarette
15 smoking was injurious to nonsmokers chronically
16 exposed to tobacco smoke," correct?

17 A. Yes, that's correct.

18 Q. On December 16 -- I'm reading on now.
19 "On December 16, 1986, the Surgeon General of the
20 United States gave emphasis to this evidence by
21 the publication of the 18th report from his office
22 on the health consequences of smoking entitled,
23 'The Health Consequences of Involuntary
24 Smoking,'" correct?

25 A. That's correct.

1 Q. So is it -- it's correct, then, that by

2 February of 1987, the Mississippi State Department
3 of Health was aware of the Surgeon General's
4 report that addressed the health consequences of
5 involuntary smoking, correct?

6 A. Yes, that's correct.

7 Q. Let's look again at Exhibit 6. Do you
8 have Exhibit 6?

9 A. Yes, I do.

10 Q. Exhibit 6, again, is the May, 1988 issue
11 of the Journal of the Mississippi State Medical
12 Association, an article entitled, "A Burning
13 Issue: Attitudes Toward Environmental Tobacco
14 Smoke." And this is an article of which you were
15 one of the authors, correct?

16 A. That's correct.

17 Q. What I'd like you to do is to look at
18 page 133 of this article. On the right-hand
19 column, there's an entry that says, "Health risks
20 of passive smoking." Do you see that?

21 A. Yes, I do.

22 Q. The first sentence reads, "Evidence has
23 been accumulating that smokers not only endanger
24 their own health, but also the health of
25 nonsmokers." Correct?

1 A. Yes, that's correct.

2 Q. And then on page 134 at the top of the
3 page on the left-hand side, there's a sentence
4 that reads, "The most alarming consequence of
5 exposure to passive smoke is an increase in lung
6 cancer risk," correct?

7 A. Yes. That's what it says.

8 Q. And then the next paragraph reads,
9 "Among other documented health effects of passive
10 smoking are an increase in bronchitis and
11 pneumonia in children of parents who smoke, a
12 decrease of up to 40 percent in the interval
13 between the start of exercising of patients with
14 heart disease and a decrease in small airways
15 function in nonsmokers." Did I read that
16 correctly?

17 A. Yes, apparently you did.

18 Q. And that's another statement that was in
19 this article that you wrote, correct?

20 A. That's correct. However, all these
21 statements that you have just read and read
22 correctly are quoted from other sources and
23 footnoted as such in the article.

24 Q. I understand that they're from other
25 sources. They're footnoted, and that's what --

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1 the paragraph that I just read you, in the third
2 line, there's a little 8; is that correct?
3 A. That's correct.
4 Q. And in the fifth line, there's a -- the
5 fifth line, there's a little 9; is that correct?
6 A. That's correct.
7 Q. And then at the end there's a little 10;
8 is that correct?
9 A. Correct.
10 Q. And those numbers refer to a list of
11 references on page 135 of this article; do they
12 not?
13 A. That's correct.
14 Q. So your point is that the last paragraph
15 that I read you, some of the information that's in
16 there is drawn from these references that are
17 listed on page 135; is that correct?
18 A. That's correct.
19 Q. But -- but you agree with the statements
20 that are in this article that I just read you; do
21 you not?
22 A. Yes, we do. But we can't claim original
23 authorship for them.
24 Q. No, I'm not asking you if you claim
25 original authorship for it. I'm just asking if

1 effort to quit and succeed." Is that correct?
2 ...A. That's what it reads. Yes.
3 Q. And that's a statement that was made by
4 the Mississippi Department of Health in 1988,
5 correct?
6 A. Statement made or echoed from Arizona by
7 the Mississippi State Department of Health. But,
8 yes, it's one of the two.
9 Q. When you say, "...echoed by the Arizona
10 Department of Health," you're referring to the
11 bottom of the second page of the document where it
12 says, "Adapted from an Arizona Department of
13 Health Services publication," is that correct?
14 A. That's correct.
15 Q. And your point is that this health risk
16 appraisal was -- that the Mississippi Department
17 of Health distributed to people in Mississippi was
18 adapted from something originally written by the
19 Arizona Department of Health, correct?
20 A. That's correct.
21 Q. But this, nonetheless -- Exhibit 4,
22 nonetheless, was distributed by the Mississippi
23 Department of Health as its own statement; was it
24 not?
25 A. It was distributed as a statement of the

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1 you were aware of these statements in May of 1988,
2 which you were, correct?
3 A. Yes, we were.
4 Q. And the Mississippi State Department of
5 Health as well, correct?
6 A. That is correct.
7 Q. Go back for a moment to
8 Exhibit Number 5.
9 A. All right.
10 Q. Exhibit Number 5 is the Mississippi
11 State Department of Health, Health Risk Appraisal
12 dated February, 1988, on the second page, produced
13 by the Mississippi State Department of Health,
14 correct?
15 A. That's correct.
16 Q. This is a document we talked about
17 earlier. And, I think, you agreed is a document
18 that was intended to be distributed by the
19 Mississippi State Department of Health widely in
20 the State of Mississippi, correct?
21 A. That appears to be its purpose. Yes.
22 Q. On the second page of this document in
23 the third paragraph, there's a statement that
24 says, "Quitting smoking is not easy, but each year
25 over 1 million people just like you make the

1 Mississippi Department of Health with the
2 acknowledgment that we did not do all the work.
3 Q. Correct.
4 A. If -- if the question is did we
5 distribute it as information that we believed to
6 be accurate? Yes, that is the case.
7 Q. That's the question. And you expected
8 that people who received it would take it as
9 information provided them by the Mississippi
10 Department of Health intending it to being
11 accurate, correct?
12 A. That's correct.
13 MR. MUNSON: Mark this, please, as
14 Exhibit Number 8.
15 (Exhibit 8 marked for identification.)
16 A. (Examining.) All right.
17 Q. Exhibit 8 is a document, the first page
18 of which says, "Health." And it's volume 6,
19 number 2, summer 1989; is that correct?
20 A. That's what it is, yes.
21 Q. Do you know what this is?
22 A. No, I don't.
23 Q. You don't know what the publication
24 "Health" is?
25 A. I can't -- I can't place it from what is

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1 here. It almost looks like there's something cut
2 off from the top that might be helpful, in the
3 copying.
4 Q. Look at the second page.
5 A. All right.
6 Q. The second page is the beginning of an
7 article entitled, "Americans' Attitudes Towards
8 Tobacco Dramatically Changed," correct?
9 A. Correct.
10 Q. And it says by Ellen Shea Jones,
11 correct?
12 A. That's correct.
13 Q. And then on the last page of the
14 document in the middle column underneath the
15 photograph, there's an entry that says, "Ms. Jones
16 is Director of the Office of Health Promotion and
17 Education, Mississippi State Department of
18 Health," correct?
19 A. That's correct.
20 Q. Now, is this an article that was written
21 by Ellen Shea Jones of the Mississippi Department
22 of Health?
23 A. It appears to be, yes.
24 Q. Do you have any reason to believe that
25 this was not an article published in the summer of

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1 1989 in that publication entitled "Health?"
2 A. No, that's -- that's what appears to be
3 the case from the Exhibit you present to me.
4 Q. Look at the third page. Excuse me.
5 Look at the third page of the document on the
6 left-hand column about halfway down.
7 A. All right. Is this the page that's
8 numbered 34 in the document and 64 in the
9 Exhibit?
10 Q. Yes.
11 A. All right.
12 Q. It's the third page of the Deposition
13 Exhibit. In the -- in the left-hand column, just
14 a little bit above the middle, there is a
15 paragraph that reads, "New evidence reveals the
16 nicotine and cigarettes to be as addictive as
17 cocaine, heroin or alcohol." Do you see that
18 statement?
19 A. Yes, I see that.
20 Q. And do you know if -- if
21 Ellen Shea Jones wrote this article in her
22 official capacity with the Mississippi Department
23 of Health?
24 A. No, I don't know whether she did or
25 not. She may well have. But because I don't know --

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1 whether this publication -- I can't tell what this
2 publication is in which her article appears. So
3 she may have written this in her official
4 capacity, or she could have written it outside her
5 official capacity relying on her expertise. I
6 simply don't know which of the two it was. I have
7 no reason to believe it was either or the other.
8 Q. Whichever it was, in the summer of 1989,
9 Ellen Shea Jones, who was then the Director of the
10 Office of Health, Promotion and Education,
11 Mississippi State Department of Health, made the
12 statement that, "New evidence reveals the nicotine
13 in cigarettes to be as addictive as cocaine,
14 heroin or alcohol;" is that correct?
15 A. Yes, that appears to be the case from
16 this Exhibit.
17 Q. And she was obviously aware of that
18 information since 1989, correct?
19 A. This is what I would conclude from this
20 Exhibit. And I would assume that to be the case,
21 regardless.
22 MR. MUNSON: Would you mark this as
23 Exhibit 9, please?
24 (Exhibit 9 marked for identification.)
25 Take a minute to review number 9 if you

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1 would, please.
2 A. (Examining.)
3 Q. Are you ready? I'm sorry.
4 A. I've reviewed the document.
5 Q. Exhibit number 9 is a document entitled,
6 "The Health Benefits of Smoking Cessation," on
7 the first page, correct?
8 A. That's correct.
9 Q. It has some numbers in the bottom
10 right-hand corner of each of the two pages of the
11 document, MSDH 001182 on the first page, and the
12 same numbers ending with 83 on the second page.
13 Do you see that?
14 A. Yes, I see that.
15 Q. What that is, that is a document number
16 that was put on this document when it was produced
17 by the Mississippi Department of Health in this
18 litigation. Do you understand?
19 A. I believe I do, yes.
20 Q. Look at page 2 of the document. At the
21 second to last paragraph on the page it says,
22 "Smoking cessation programs give quitters a
23 motivation and support system. The office of
24 Health Promotion and Education with the
25 Mississippi State Department of Health can offer

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1 smoking cessation assistance to any organization
2 in the State." Do you see that language?
3 A. Yes, I do.
4 Q. I take it that this is a document that
5 was written at some point by the Mississippi
6 Department of Health. Do you agree?
7 A. I would conclude that from its
8 appearance.
9 Q. Uh-huh. That's what I'm asking.
10 A. Yes.
11 Q. So you agree that this appears to be a
12 document from the Mississippi Department of
13 Health, correct?
14 A. Yes, I do.
15 Q. On the first page of the document, the
16 fourth paragraph, the beginning of the paragraph,
17 there's a sentence that reads, "Tobacco dependence
18 can be treated successfully; however, quitting can
19 be a difficult process for persons addicted to
20 cigarettes." Do you see that statement?
21 A. Yes, I do.
22 Q. That was a statement, it appears, made
23 by the Mississippi State Department of Health,
24 correct?
25 A. Yes, that's correct.

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1 Q. On the first -- the first paragraph of
2 the document refers to the 1990 Surgeon General's
3 report, correct?
4 A. Yes, it does.
5 Q. That suggests that this document must
6 have been written after 1990, correct?
7 A. I would arrive at that conclusion from
8 that statement, yes.
9 Q. And obviously sometime before today,
10 correct?
11 A. Yeah, I think that's fair to say.
12 Q. On page 2 of this document entitled,
13 "The Health Benefits of Smoking Cessation," that
14 was written sometime after 1990 by the Mississippi
15 Department of Health, there is a statement that
16 says, "Nicotine is the drug in tobacco that causes
17 addiction or dependence." Do you see that
18 statement?
19 A. Yes, I do.
20 Q. And again, that's a statement that was
21 made by the Mississippi Department of Health
22 sometime after 1990, correct?
23 A. Yes, that's apparently the case.
24 MR. MUNSON: Would you mark this as
25 Exhibit 10, please?

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1 (Exhibit 10 marked for identification.)
2 (A short break was taken.)
3 Q. I think you've got in front of you
4 Deposition Exhibit Number 10; is that correct?
5 A. That's correct.
6 Q. This is a document of several pages.
7 The first page says, "Mississippi Substance Abuse
8 Prevention Curriculum." It says in the lower
9 right-hand corner, "Drugs: They get to the
10 matter." And then there's a little -- looks like
11 a little stamped entry in the right-hand side of
12 the page that says, "MSDOCS Depository C.1." Do
13 you have any idea what that is?
14 A. I would guess that it would be the State
15 Document Depository or State Archives, as we often
16 call it, in which a fair number of documents no
17 longer needed for immediate daily use are kept.
18 Q. Okay. So this suggests to you that
19 maybe this document came from the Mississippi
20 State Archives?
21 A. Probably so.
22 Q. On the next page, there's an entry at
23 the top of the page says, "Mississippi Substance
24 Abuse Prevention Curriculum." Do you see that?
25 A. Yes.

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1 Q. And then there are a list of names. And
2 then in the middle of the page it says,
3 "Mississippi State Department of Education,
4 Bureau of School Improvement." And then at the
5 bottom of the page, there's a date, 1987; do you
6 see that?
7 A. I do.
8 Q. Now, there's some pages behind this
9 document. And I don't have the full document, for
10 which I apologize. It's obviously a document of
11 some length, and there are only a few pages here.
12 But I want to ask you a couple of questions,
13 nonetheless.
14 On page -- page A-19 through 20, there's
15 a list of six numbered items dealing with the --
16 describing effects of smoking. Do you see that?
17 The middle of the page, it says "Long-term effects
18 include"?
19 A. Yes.
20 Q. Number one, "Heart Disease: Cigarette
21 smoking contributes to heart disease which kills
22 more Americans than any other disease," correct?
23 A. Yes.
24 Q. That's a correct quote?
25 A. Uh-huh.

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1 Q. Then there's a number 2, "Bronchitis:
2 Inhaling foreign substances such as polluted air,
3 cigarette smoke or dust is the leading cause of
4 bronchitis." Did I read that correctly?
5 A. Yes, you did.
6 Q. The third entry is "Emphysema: Smoking
7 is a major factor in contributing to the
8 development of emphysema." Do you see that?
9 A. Yes, I do.
10 Q. And all of this is on the page numbered
11 A-19, correct?
12 A. Correct.
13 Q. And over on the next page, there's an
14 entry number 4, "Lung Cancer:" Says, "Cigarette
15 smoking is the leading cause of lung cancer." Did
16 I read that correctly?
17 A. Yes.
18 Q. Then there's an entry, "Weight
19 Reduction: Nicotine reduces one's appetite as do
20 most stimulates, and at the same time the process
21 of smoking gives a sense of oral satisfaction."
22 Do you see that?
23 A. I do.
24 Q. And then there's a number 6 that says
25 "Pregnancy Complications". Do you see that?

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1 A. I do.
2 Q. It says, "Smoking affects a woman's
3 unborn child in several ways." Correct?
4 A. I see that.
5 Q. Now, it also says in the next paragraph,
6 "Smoking inhibits the development of the fetus,
7 which results in lowered birth weight." Correct?
8 A. Yes, it does.
9 Q. This document -- again, go back to the
10 first page and look at it. It's a document
11 entitled, "Mississippi Substance Abuse Prevention
12 Curriculum," is it not?
13 A. Yes, it is.
14 Q. And a curriculum is a collection of
15 information that is presented to children or
16 students in schools; is it not?
17 A. Not being an educator, I can't say for
18 sure. But I believe that a curriculum is, in
19 fact, the plan of information to be presented, not
20 what is actually presented. I think it defines
21 what is to be presented.
22 Q. So does this look to you, this
23 Mississippi Substance Abuse Prevention Curriculum,
24 does it look like to you it's a plan of the
25 information to be presented, put together by some

1 people from the Mississippi State Department of
2 Education?
3 A. That's what it appears to be to me, yes.
4 Q. And that plan includes the information
5 that we just discussed on pages A-19 to A-20; does
6 it not?
7 A. That seems to be the case, yes.
8 Q. And this curriculum or plan was put
9 together according to the document on page 2 in
10 1987, correct?
11 A. That seems to be correct, yes.
12 Q. Look at -- on this document as well, on
13 page A-21. There's an entry about a quarter of
14 the way down that says, "Physical and
15 psychological dependence on cigarettes often sets
16 in when daily use exceeds 10 cigarettes." Do you
17 see that?
18 A. I do.
19 Q. And then drop down a couple of
20 sentences, it says, "There is no physical danger
21 involved in withdrawal from nicotine; however, the
22 psychological desire to continue the habit of
23 smoking can be very difficult to overcome." Did I
24 read that correctly?
25 A. I believe you did, yes.

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1 Q. Now, that -- what I just read, that
2 information, I take it, was also part of this
3 curriculum or plan of information put together by
4 the State Department of Education in 1987 to
5 present to Mississippi school students; is that
6 correct?
7 A. I gather that from the material you've
8 presented me with, yes.
9 MR. MUNSON: Let's mark this as Exhibit
10 number 11.
11 (Exhibit 11 marked for identification.)
12 A. (Examining.)
13 Q. Dr. Thompson, this Exhibit 11 is -- is
14 10 or so pages long. And I really only want to
15 ask you a question on something that appears on
16 page 9. Please feel free to read the whole
17 document.
18 (Off the record.)
19 Q. Exhibit number 11 is a document
20 entitled, "Mississippi Public Health Milestones."
21 And it appears to be -- to have been prepared by
22 the office of Health Communications and Public
23 Relations, Mississippi State Department of Health,
24 July 1986, revised July 1993. Do you see all of
25 that?

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1 A. Yes, I do.
 2 Q. On page 9 of the original document,
 3 there is an entry over in the right-hand side that
 4 says "1958". Do you see that?
 5 A. I do.
 6 Q. And next to it it says,
 7 "Dr. Archer Lee Gray became Executive Director
 8 July 1 on the retirement of Dr. Felix J.
 9 Underwood." Do you see that?
 10 A. Yes, I do.
 11 Q. Do you know if it's correct that
 12 Dr. Felix J. Underwood retired as Executive
 13 Director of the Mississippi Department of Health
 14 in 1958?
 15 A. To be perfect -- I don't know of my
 16 direct knowledge. I thought he died in office,
 17 but I don't really know.
 18 Q. Do you have any reason to believe that
 19 this statement by the Mississippi Department of
 20 Health is not correct?
 21 A. I don't have any reason to believe it's
 22 correct or incorrect. I just simply don't know.
 23 Q. But it says here that he retired in
 24 1958, correct?
 25 A. Yes.

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1 MR. MUNSON: Would you mark this as 12,
 2 please?
 3 (Exhibit 12 marked identification.)
 4 A. (Examining.)
 5 Q. Take a minute to review that, please.
 6 A. (Examining.) All right. I have
 7 reviewed the document.
 8 Q. This is a -- Exhibit 12 is a document
 9 that's entitled at the top of the page,
 10 "Tobacco." And at the bottom of the document,
 11 it's a single paged document, it says,
 12 "Mississippi State Board of Health,
 13 Felix J. Underwood, M.D., Executive Director --
 14 Executive Officer," correct?
 15 A. Yes, that's correct.
 16 Q. Now, my first question is this: Going
 17 back to Exhibit number 11 which said that
 18 Felix J. Underwood retired in 1958, do you recall
 19 that?
 20 A. I do.
 21 Q. Exhibit 12 isn't dated. But it would
 22 make sense, wouldn't it, to assume that this was
 23 written before Dr. Felix J. Underwood retired in
 24 1958?
 25 A. I would conclude that since it's

1 indicated that he is the Executive Officer of the
 2 Board of Health at that time.
 3 Q. Correct. So while we can't know the
 4 exact date of Exhibit number 12, it makes sense
 5 that it was written in 1958 or earlier, correct?
 6 A. I would agree.
 7 Q. The -- and Felix J. Underwood was the
 8 Executive Officer of the Mississippi State Board
 9 of Health, correct?
 10 A. Prior to 19 -- during, prior to 1958 and
 11 for a long time, he was.
 12 Q. Now, is that job, Executive Officer, is
 13 that the same job you have now with a different --
 14 with a different name?
 15 A. Essentially so, yes.
 16 Q. So he was called Executive Officer then,
 17 but he had the same job as you do now as State
 18 Health Officer; is that correct?
 19 A. Yes, that's correct.
 20 Q. Let's look at this document for a
 21 moment. The first paragraph of this document
 22 reads, "The use of tobacco in youth retards
 23 growth, reduces lung capacity, produces hardness
 24 of the blood vessels and shortens life
 25 expectancy. Smoker's throat and smoker's catarrh

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1 are often encountered by physicians and pneumonia
 2 is more often fatal to smokers than to others.
 3 The nicotine in tobacco is a deadly poison." Do
 4 you see that language?
 5 A. Yes, I do.
 6 Q. And that's a statement that
 7 Dr. Felix J. Underwood, Executive Officer,
 8 Mississippi State Board of Health, made 1958 or
 9 earlier, correct?
 10 A. I would assume that as the case.
 11 Q. That's what the document shows, doesn't
 12 it?
 13 A. The document reflects that, yes.
 14 MR. MUNSON: Would you mark this as
 15 Exhibit 13, please?
 16 (Exhibit 13 marked for identification.)
 17 A. (Examining.) All right.
 18 Q. Exhibit 13 is a two-page document that
 19 on the first page on the right-hand side has an
 20 article or an entry entitled "Smokers Beware,"
 21 correct?
 22 A. That's correct.
 23 Q. This article is dated -- if you'll look
 24 at the first page over in the left-hand corner at
 25 the bottom, it's dated August, 1960. Do you see

1 that?
2 A. Yes, I do.
3 Q. And then on the second page, and again,
4 I apologize for the quality or lack of quality of
5 this copy. But it says in the right-hand side
6 bottom of the second page, "Journal MSMA." Do you
7 know if that means the "Journal of the Mississippi
8 State Medical Association?"
9 A. I believe that it does.
10 Q. Back on the first page of the article,--
11 of the document, the two paragraphs of the
12 article, "Smokers Beware," reads, "The habit of
13 smoking has always had an aura of danger
14 associated with it. This cloud of suspicion has
15 existed for as long as mankind has utilized
16 tobacco and other smokeable herbs and roots. And
17 general concern regarding this has been at various
18 times more with us and less with us. Today we are
19 again at the crest of the wave insofar as popular
20 awareness of this problem is concerned. There are
21 convincing statistics on smoking and cancer.
22 There are strong experimental and clinical
23 evidence of the adverse effects of smoking on the
24 cardiovascular system. The connection between
25 smoking and peptic ulcer appears to grow more

1 State Medical Association?
2 -- A. Not so far as I know. Only about half
3 the doctors in Mississippi are members. Whether
4 they work for the Department of Health or not. So
5 I would assume that ours reflect about that same
6 distribution.
7 Q. So you don't -- you weren't with the
8 Mississippi Department of Health in 1960s, so you
9 don't know --
10 A. I was 13.
11 Q. You were precocious, but not that
12 precocious.
13 A. I wasn't with anything.
14 Q. Do you know, Doctor, if the Mississippi
15 State Department of Health, itself, has a
16 subscription to the "Journal of the Mississippi
17 State Medical Association?"
18 A. I don't think we do now. At the time
19 this article was written, I believe we had a
20 library. And if we did, I would imagine we might
21 have had a subscription. But now, that's all
22 conjecture.
23 Q. Sure, sure. But chances are this
24 article was in the Mississippi State Department of
25 Health library back in 1960 when it still had the

1 obvious all the time."
2 Did I read that correctly?
3 A. Yes, you did.
4 Q. Now, this article that was published in
5 the "Journal of the Mississippi State Medical
6 Association," is the "Journal of the Mississippi
7 State Medical Association" something that people
8 in the Mississippi Department of Health typically
9 read?
10 A. The physicians in the Department of
11 Health, who are members of the State Medical
12 Association receive the Journal. And presumably
13 some of those read it.
14 Q. So if you're -- if you're a doctor who
15 works for the Mississippi State Department of
16 Health and you're a member of the State Medical
17 Association, you get the "Journal" automatically;
18 is that correct?
19 A. That's correct.
20 Q. How many doctors do you have now who are
21 employees of the Mississippi State Department of
22 Health?
23 A. Roughly 25 to -- between 20 and 30 at a
24 given time. Right now, it's about 25.
25 Q. Are they all members of the Mississippi

1 library?
2 A. It could well have been.
3 Q. You don't have any reason to believe
4 that it wasn't, do you?
5 A. No.
6 MR. MUNSON: Let's mark this as
7 Exhibit 14.
8 (Exhibit 14 marked for identification.)
9 A. (Examining.) All right.
10 Q. Dr. Thompson, Exhibit number 14 is a
11 document entitled, "To Smoke or Not to Smoke."
12 And it is six pages long. On the second page of
13 the document in the lower left-hand corner in very
14 small print it appears to say, "1958, American
15 Cancer Society". Do you see that?
16 A. I do.
17 Q. And then on the last page of the
18 document at the very bottom there's a statement
19 that says, "This folder was made possible by your
20 contributions to the American Cancer Society,
21 Inc.," with an address in New York. Do you see
22 that?
23 A. Yes, I do.
24 Q. Does this appear to be a document, the
25 original of which was produced by the American

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1 Cancer Society?
2 A. Yes, it does.
3 Q. Now, on the front -- the first page of
4 this document there is what appears to be a stamp
5 that says, "Library, Mississippi State Board of
6 Health, Jackson, Mississippi." Do you see that?
7 A. Yes, I do.
8 Q. And it appears that this document was in
9 the library of the Mississippi State Board of
10 Health in Jackson, Mississippi; is that correct?
11 A. It does appear that way.
12 Q. Let's look at the document, itself, for
13 a moment. On the second page of the document, in
14 the middle, there's an entry that says, "Important
15 Developments." Do you see that?
16 A. I do.
17 Q. The second paragraph after that says,
18 "In the United States, an independent study group
19 on smoking and health composed of seven scientists
20 and organized in 1956 to review all the evidence
21 published its report. Sponsors were the U. S.
22 Government's National Cancer Institute, National
23 Heart Institute, and the American Cancer Society
24 and American Heart Association, both volunteer
25 health agencies. Most important conclusion of the

1 document.
2 Q. Thank you, sir. Exhibit number 15 is a
3 two-page document that on the first page at the
4 bottom in the middle in very small print, it says,
5 I believe, "This pamphlet is made possible by your
6 local Tuberculosis and Health Association through
7 your Christmas Seal contribution published by the
8 Pennsylvania Tuberculosis and Health Society." Do
9 you see that?
10 A. I do.
11 Q. Then there appears to be a date under
12 that to the right a little bit that says 8/60. Do
13 you see that?
14 A. Yes, I do.
15 Q. And that appears to mean August, 1960,
16 correct?
17 A. I would conclude that.
18 Q. Now, the document on the first page on
19 the right-hand side says, "Don't let your health
20 go up in smoke." Do you see that?
21 A. Yes, I do.
22 Q. On the second page of the document on
23 the right-hand side it says, "Cigarette smokers
24 risk death sooner than nonsmokers." Do you see
25 that?

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1 scientists' was the sum total of scientific
2 evidence establishes beyond reasonable doubt that
3 cigarette smoking is a causative factor in the
4 rapidly increasing incidence of human epidermoid
5 carcinoma, cancer of the lung." Do you see that
6 statement?
7 A. Yes, I do.
8 Q. Did I read it correctly, other than not
9 being able to pronounce epidermoid correctly?
10 A. Yes, you did.
11 Q. Now, that statement appears in this 1958
12 American Cancer Society publication, correct?
13 A. That's correct.
14 Q. And this American Cancer Society
15 publication was in the library of the Mississippi
16 State Board of Health in Jackson, Mississippi,
17 correct?
18 A. That's the indication on the front.
19 Q. And the publication by the American
20 Cancer Society was in 1958, correct?
21 A. I believe that it was.
22 MR. MUNSON: Please mark that as
23 Exhibit number 15.
24 (Exhibit 15 marked for identification.)
25 A. (Examining.) I have reviewed the

1 A. Yes, I do.
2 Q. Then there's a chart. Then under the
3 chart it says, "The above chart is based on a
4 report issued by the U. S. Public Health Service
5 in July, 1959 of nearly 200,000 policyholders of
6 U. S. Government Life Insurance. The report
7 states also that there is striking evidence that
8 regular cigarette smokers are subject to increased
9 risk of dying from --, and then there's a list
10 that reads, "Lung cancer, cardiovascular disease,
11 bronchitis, pleurisy, emphysema, ulcers of the
12 stomach, ulcers of the duodenum, cirrhosis of the
13 liver." Did I read that correctly?
14 A. Yes, you did.
15 Q. Now, back on the first page of this
16 document from August of 1960, on the right-hand
17 side there is a stamp that says, "Library,
18 Mississippi State Board of Health, Jackson,
19 Mississippi." Do you see that?
20 A. Yes, I do.
21 Q. That suggests that this document we're
22 looking at was in the library of the Mississippi
23 State Board of Health in Jackson, Mississippi;
24 does it not?
25 A. I would think that it does.

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1 Q. You don't have any reason to believe
2 that it wasn't in the library, do you?
3 A. No, I do not.
4 MR. MUNSON: Mark this as
5 Exhibit number 16, please.
6 (Exhibit 16 marked for identification.)
7 A. (Examining.)
8 Q. Have you had a chance to review it?
9 A. Yes, I have.
10 Q. Exhibit 16 is a two-page document that,
11 on the first page in the middle at the bottom,
12 says, "Published by the Pennsylvania Tuberculosis
13 and Health Society," correct?
14 A. That's correct.
15 Q. And then it has -- to the right of that,
16 it has the numbers 1/63. Do you see that?
17 A. I do.
18 Q. That suggests that this pamphlet was
19 published in January of 1963, correct?
20 A. It would suggest that.
21 Q. The document on the first page on the
22 right-hand side says, "Filter the facts before the
23 smoke," correct?
24 A. That's correct.
25 Q. And it goes on, "The mass of statistical

1 users of cigarettes is 63 percent higher than the
2 rate of nonsmokers." Did I read that correctly?
3 A. Yes, you did.
4 Q. Now, let's go back to the first page of
5 the document. Over on the right-hand side there
6 is, apparently, a stamp that says, "Library,
7 Mississippi State Board of Health, Jackson,
8 Mississippi," correct?
9 A. That's correct.
10 Q. That looks as if that was stamped onto
11 this document; does it not?
12 A. I would think so.
13 Q. Which suggests that this document was in
14 the library of the Mississippi State Board of
15 Health in Jackson, Mississippi, correct?
16 A. I would think that's correct.
17 Q. And the document, itself, was published
18 in January of 1963 by the Pennsylvania
19 Tuberculosis and Health Society, correct?
20 A. That appears to be the case.
21 MR. MUNSON: This is Exhibit number 17.
22 (Exhibit 17 marked for identification.)
23 A. (Examining.) All right.
24 Q. Dr. Thompson, Exhibit 17 is a document
25 entitled, "Smoking and Health," on the first page

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1 evidence indicates that smoking, particularly
2 cigarette smoking, is harmful to health," correct?
3 A. That's correct.
4 Q. Then on the second page on the left-hand
5 side near the top, there's a paragraph that reads,
6 "Scientific evidence linking cigarette smoking to
7 various diseases may lead to much suffering and
8 shorter life, has been accumulating for more than
9 a decade." Do you see that?
10 A. Yes, I do.
11 Q. In the next column to the right, the
12 first paragraph says, "Since 1953, at least 23
13 investigations in nine different countries have
14 reported on the relationship between lung cancer
15 on smoking. All of these have shown that the
16 death rate from lung cancer rises steeply with
17 increased smoking of cigarettes." Do you see
18 that?
19 A. Yes, I do.
20 Q. And then, finally, in that same column,
21 second paragraph from the bottom, under the
22 heading, "Cigarette Smoking Makes Heart Trouble
23 Worse," there's a paragraph that reads, "According
24 to go the U. S. Public Health Service, the death
25 rate from coronary heart disease among regular

1 on the right-hand side; is that correct?
2 A. That's correct.
3 Q. And below that in the lower right-hand
4 corner it says, "Produced and distributed by
5 interagency committee on smoking and health,"
6 correct?
7 A. That's correct.
8 Q. And it's dated 1963, correct?
9 A. That's correct.
10 Q. In the middle of that same page there's
11 a column that starts with the word "Cooperating
12 agencies." Do you see that?
13 A. I do.
14 Q. And then it lists American Cancer
15 Society, Jackson, Mississippi, Mississippi Heart
16 Association, Jackson, Mississippi, Mississippi
17 Tuberculosis Association, Jackson, Mississippi,
18 State Board of Health, Felix J. Underwood, State
19 Board of Health Building, Jackson, Mississippi,
20 and then finally, the State Department of
21 Education, Jackson, Mississippi. Do you see all
22 of that?
23 A. Yes, I do.
24 Q. Now, it appears that this document was
25 produced and distributed by something called the

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1 Interagency Committee on Smoking and Health and
2 that the cooperating agencies were the American
3 Cancer Society, Mississippi Heart Association,
4 Mississippi Tuberculosis Association, Mississippi
5 State Board of Health, and the State Department of
6 Education, correct?

7 A. That's correct.

8 Q. And all this was done way back in 1963,
9 correct?

10 A. That's apparently the case from the
11 document you're showing me.

12 Q. Let's look at the second page of this
13 document, over on the right-hand side. There's an
14 entry that says, "If you smoke..." Do you see
15 that?

16 A. Yes.

17 Q. And it reads on from there, "The chances
18 are substantially higher that one or more of these
19 things will happen to you than if you don't
20 smoke. A pack-a-day smoker has 10 times the risk
21 of dying of lung cancer, about twice the chances
22 of dying of coronary heart disease, more than
23 twice the probability of having chronic
24 bronchitis, three times the likelihood of
25 developing emphysema, one and one-half times risk

1 A. (Examining.) Okay.

2 -- Q. Exhibit 18 is a two-page document, which
3 on the first page the title is "45th Biennial
4 Report" being the 89th and 90th annual reports of
5 the State Board of Health of the State of
6 Mississippi, July 1, 1965 through June 30, 1967,
7 Archie L. Gray, M.D., MPH, which again stands for
8 medical doctor and master of public health --

9 A. That's correct.

10 Q. -- Executive Officer, Jackson,
11 Mississippi. So this is -- am I correct, this is
12 a report from the Mississippi State Board of
13 Health that was made every two years; is that
14 correct?

15 A. That appears to be the case, from the
16 cover of the document.

17 Q. The -- look at the second page of the
18 document, which this report, obviously, had many
19 pages to it because what we have here appears to
20 be only page 15 and 16 of the whole entire
21 document. But on page -- the second page of the
22 Exhibit, which appears to be page 15 of the
23 document, there's a statement -- there's a caption
24 that says, "Smoking and Health Project." Do you
25 see that?

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1 of developing a chronic cough." Do you see that
2 language?

3 A. Yes, I do.

4 Q. Now, that was -- that language was in
5 this document produced in 1963 by these
6 cooperating agencies and included the Mississippi
7 State Board of Health, correct?

8 A. That's apparently the case, yes.

9 Q. This Interagency Committee on Smoking
10 and Health, does that still exist?

11 A. I'm reasonably certain that the
12 committee that's listed here doesn't. There are
13 groups that would be similar in their nature that
14 do exist now.

15 Q. But in 1963, there was obviously
16 something called the Interagency Committee on
17 Smoking and Health, correct?

18 A. That's correct.

19 Q. And your best understanding is that
20 particular literal entity no longer exists?

21 A. To best of my knowledge, it does not.
22 At least, not by that name.

23 Q. Let's go to the next document, which
24 will be Exhibit Number 18.

25 (Exhibit 18 marked for identification.) -- --

1 A. Yes, I do.

2 Q. And then it says, "The problem -- as the
3 overwhelming medical evidence of the harmful
4 effects of smoking mounted, Mississippi had only
5 fragmented and sporadic efforts directed toward
6 developing a public awareness of this health
7 hazard that threatened large numbers of teenagers,
8 as well as adults." Do you see that language?

9 A. I do.

10 Q. And this statement was made by the
11 Mississippi State Board of Health as of around
12 June of 1967, correct? Which is the period
13 covered by the report?

14 A. Only partly correct, because in that
15 next paragraph titled, "The Response," there is a
16 line indicating that in March of 1963 certain
17 activities were undertaken --

18 Q. Correct.

19 A. -- to correct this problem. So that
20 although the date of the report covers the period
21 '65 through '67, they indicate activities taking
22 place somewhat before that.

23 Q. Fair enough, fair enough. What I meant
24 to ask was this: The statement that I read is the
25 statement that was made by the Mississippi

1 Department of Health sometime after June 30th,
2 1967, correct?

3 A. Yes, the statement, apparently, was made
4 at that point.

5 Q. But, likely, not terribly long after
6 June 30th, 1967, correct?

7 A. Are you referring to the date the
8 statement was made?

9 Q. Yeah.

10 A. Yes, I think that's fair to assume.

11 Q. So the statement was probably made
12 sometime in 1967 or 1968 at the latest, correct?

13 A. I would think so, yes.

14 MR. MUNSON: It is 12:30, and my
15 comrades here have to leave to go off to fairer
16 fields.

17 (A lunch break was taken.)

18 (Exhibit 19 marked for identification.)

19 A. (Examining.) Okay.

20 Q. Have you had a chance to look at
21 Exhibit 19?

22 A. Yes, I have.

23 Q. Exhibit 19 is a document of several
24 pages. On the first page it -- the title is
25 "Summary of the Report of Surgeon General's

1 of the page that says, "Other Respiratory
2 Diseases." Do you see that?

3 A. I do.

4 Q. And it reads under that, "Cigarette
5 smoking is the most important of the causes of
6 chronic bronchitis in the United States, and
7 increases the risk of dying from chronic
8 bronchitis." Then the sentence after that, it
9 says, "The smoking of cigarettes is associated
10 with an increased risk of dying from pulmonary
11 emphysema." Do you see that language?

12 A. I do.

13 Q. On that same page, page 9, there's a
14 heading that reads, "Cardiovascular Disease." Do
15 you see that?

16 A. I do.

17 Q. Second sentence in that entry says, "It
18 is established that male cigarette smokers have a
19 higher death rate from coronary disease than
20 nonsmoking males." Do you see that?

21 A. I do.

22 Q. On page 10 of the document, there is an
23 entry in the middle of the page, "Other
24 Conditions." Do you see that?

25 A. Yes, I do.

1 Advisory Committee on Smoking and Health." Do you
2 see that?

3 A. Yes, I do.

4 Q. And also on the first page it says,
5 "U. S. Department of Health, Education and
6 Welfare, Public Health Service." That's a part of
7 the U. S. Federal government; is it not?

8 A. Yes, it is.

9 Q. And on the left-hand side of the first
10 page of the document as we see it, it's dated
11 September 1964, correct?

12 A. That's what it says.

13 Q. If you look at the -- in the body of the
14 document on the documents numbered page 7 which at
15 the top of the page says, "Cancer By Sight." Do
16 you see that?

17 A. I do.

18 Q. There's an entry at the top of the page,
19 "Lung Cancer", which says, "Cigarette smoking is
20 causally related to lung cancer in men. The
21 magnitude of the effect of cigarette smoking far
22 outweighs all other factors." Do you see that?

23 A. Yes, I do.

24 Q. Then on page 9 of the document, numbered
25 page 9 of the document there's an entry at the top --

1 Q. And underneath that, there is a
2 paragraph that says, "Peptic Ulcer.
3 Epidemiological studies indicate an association
4 between cigarette smoking and peptic ulcer which
5 is greater for gastric and for duodenal ulcer."
6 Do you see that?

7 A. Right.

8 Q. And two paragraphs down there's a
9 paragraph that reads, "Cirrhosis of the liver.
10 Increased mortality of smokers from cirrhosis of
11 the liver has been shown in the perspective
12 studies." Did I read that correctly?

13 A. Yes, you did.

14 Q. The next paragraph reads, "Maternal
15 smoking and infant birth rate. Women who smoke
16 cigarettes during pregnancy tend to have babies of
17 lower birth weight."

18 And then finally, in this document on
19 numbered page 11 of the document, the last
20 paragraph reads, "The overwhelming evidence points
21 to the conclusion that smoking, its beginning
22 habituation and occasional discontinuation is, to
23 a large extent, psychologically and socially
24 determined. This does not rule out physiological
25 factors, especially in respect to habituation, nor

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1 the existence of predisposing constitutional or
 2 hereditary factors." Did I read that correctly?
 3 A. Yes, you did.
 4 Q. Let's go back to the first page of this
 5 Exhibit Number 19. And on the right-hand side of
 6 the first page at the top of the page there
 7 appears to have been stamped the words, "Library,
 8 Mississippi State Board of Health, Jackson,
 9 Mississippi." Do you see that?
 10 A. Yes, I do.
 11 Q. And then again over on the left-hand
 12 side of the page there appears also to have been
 13 stamped, "Library, Mississippi State Board of
 14 Health, Jackson, Mississippi," although it's not
 15 perfectly legible. But it appears as if that's
 16 what it says. Is that correct? On the left-hand
 17 side of the page.
 18 A. I can see it on the left-hand side. I
 19 don't see it on the right-hand side, or did I
 20 misunderstand you to say it's on the right-hand
 21 side.
 22 Q. We are looking at-- actually, you and I
 23 are looking at different copies of the same
 24 document apparently.
 25 The one you've got -- let's see. The

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1 copy that you have has on the left-hand side of
 2 the first page, "Library, Mississippi State Board
 3 of Health, Jackson, Mississippi," correct?
 4 A. That's correct.
 5 Q. So it appears that this document came
 6 from what was in the library, at the Mississippi
 7 State Board of Health, Jackson, Mississippi,
 8 correct?
 9 A. Yes, it does.
 10 Q. And the document is dated
 11 September 1964, correct?
 12 A. That's correct.
 13 Q. The -- the Mississippi State Board of
 14 Health library had, did it not, all of the Surgeon
 15 General's advisory committee reports on smoking
 16 and health?
 17 A. I don't know whether it did or not.
 18 Q. Do you have any reason to believe that
 19 it didn't?
 20 A. I have no reason to believe that it
 21 didn't.
 22 Q. Isn't that the sort of document that it
 23 would likely have received and kept?
 24 A. I would think that it would, yes.
 25 Q. Let's look at Exhibit 20, please.

1 (Exhibit 20 marked for identification.)
 2 -- A. (Examining.) All right. I've reviewed
 3 this.
 4 Q. Exhibit 20 is a one-page document on
 5 Mississippi State Board of Health stationery dated
 6 August 20, 1964. It is to all Health Officers and
 7 Bureau Chiefs from Alton B. Cobb, M.D. And on the
 8 left-hand side of the document at the top it lists
 9 Alton B. Cobb as the State Health Officer.
 10 Alton Cobb was the State Health Officer
 11 of Mississippi in 1974; was he not?
 12 A. To the best of my knowledge, he was.
 13 The date on the letter is 1974. You said '64, I
 14 believe.
 15 Q. I apologize. My mistake. Let me start
 16 again. Exhibit 20 is a document dated
 17 August 20, 1974, on Mississippi State Board of
 18 Health stationery from Alton B. Cobb, M.D., to all
 19 Health officers and Bureau Chiefs. Alton B. Cobb
 20 was the State Health Officer in 1974; was he not?
 21 A. To the best of my knowledge, he was.
 22 Q. The subject of this memorandum is
 23 smoking in health department facilities and
 24 services, and the first sentence reads, "There's
 25 unequivocal evidence that cigarette smoking

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1 represents the major cause of excess morbidity and
 2 mortality for our citizens." Do you see that
 3 language?
 4 A. Yes, I do.
 5 Q. And that's a statement that Alton Cobb,
 6 as State Health Officer of the State Board of
 7 Health in Mississippi made in August of 1974,
 8 correct?
 9 A. That apparently is correct.
 10 Q. In the fifth paragraph of this
 11 memorandum, Dr. Cobb said, "This is certainly not
 12 intended as a ban on smoking by health department
 13 employees. Obviously, they may choose for
 14 themselves if they wish to continue smoking, but
 15 for those who do smoke, some suitable areas should
 16 be designated for smoking." Did I read that
 17 correctly?
 18 A. You did.
 19 Q. And Dr. Cobb also said that in
 20 August of 1974; did he not?
 21 A. Apparently, he did, yes.
 22 Q. And he said that while he was State
 23 Board of Health State Health Officer for
 24 Mississippi, correct?
 25 -- A. That's my understanding from this

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1 document.

2 MR. MUNSON: Let's mark this as

3 number 21.

4 (Exhibit 21 marked for identification.)

5 A. (Examining.) All right. I've reviewed

6 this.

7 Q. Exhibit Number 21 is a three-page

8 document entitled on the first page, "Mississippi

9 School Bulletin, Manual for Teaching Health for

10 the Schools of Mississippi." It's dated

11 January 1947. And at the bottom of the page it

12 says, "State Department of Education, Jackson."

13 Is that correct?

14 A. That's correct.

15 Q. On the second page of this Exhibit,

16 which appears to be page 175 of the actual

17 original document, there is an entry that says,

18 "Unit 23, Relation of Tobacco and Drugs to

19 Health." Do you see that?

20 A. Oh, yes, I do.

21 Q. Now, this appears to be a document

22 prepared by the Mississippi State Department of

23 Education; does it not?

24 A. That's what it appears to be.

25 Q. And it's titled as a manual for teaching

1 which appears to be page 176 and 177 of Exhibit

2 20, there's a heading over the left-hand side of

3 the page that says, "Outline of Basic Content."

4 Do you see that?

5 A. Yes, I do.

6 Q. And this appears to be the outline of

7 basic content of teaching the relation of tobacco

8 on drugs to health; does it not?

9 A. Yes, it does.

10 Q. And on page 176, there's an entry,

11 number A, tobacco. Do you see that in the upper

12 left?

13 A. Yes, I do.

14 Q. And then beneath that, there's a

15 numbered entry 2 that says, "Psychological Effect

16 of Its Use," do you see that?

17 A. Yes, I do.

18 Q. And under that, number B, it says,

19 "Habit forming," correct?

20 A. Yes.

21 Q. And then over on page 177, there is an

22 entry B at the top of the page, "Effects of

23 Nicotine," do you see that?

24 A. I do.

25 Q. And all of this was in this 1947 Manual

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1 health for the schools of Mississippi. It looks

2 like it's exactly that, a manual for teaching

3 health in the Mississippi schools; does it not?

4 A. That's what it looks like to me.

5 Q. On page 175, the second full paragraph

6 of the text, there's a statement in the -- in that

7 paragraph that's about two-thirds of the way down

8 that begins over on the right-hand side of the

9 page that reads, "Growing children should be

10 equipped with the knowledge of the physical,

11 psychological, social, and economic relation of

12 the use of tobacco to health. Even though

13 considerable experimental work has been done in

14 this field, opinions still differ in some

15 respects, but all agree there's sufficient

16 scientific facts definitely established to

17 substantiate its great significance in relation to

18 health." Do you see that language?

19 A. I do.

20 Q. And that language appears in this manual

21 for teaching health for the Mississippi schools in

22 January of 1947; does it not?

23 A. Yes, it does.

24 Q. On the next page of this document which

25 appears to be -- the next page of this Exhibit,

1 for Teaching Health for the Schools of

2 Mississippi, correct?

3 A. That's correct.

4 Q. That was prepared by the Mississippi

5 State Department of Education, correct?

6 A. That's what appears to be the case based

7 on the Exhibit that you've shown me.

8 Q. Now, let's look next at number 22.

9 (Exhibit 22 marked for identification.)

10 A. (Examining.) All right.

11 Q. Exhibit 22 is a -- it's three pages. On

12 the first page, it's entitled, "Mississippi Drug

13 Education Curriculum Guide, Grades K to 12, State

14 Department of Education, Jackson, Mississippi,"

15 and it's dated 1972, correct?

16 A. That's correct.

17 Q. On the third page of this document,

18 which appears to be page 27 of the actual

19 document, itself, because I don't think we have

20 all the pages. Do you see the page 27 in the

21 upper right-hand corner?

22 A. Yes, I do.

23 Q. There is a paragraph there that reads --

24 it's the second full paragraph into the page, and

25 it reads, "Tobacco is a plant which contains a

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1 poisonous drug known as nicotine. This drug has
2 harmful effects in health such as increases in
3 heart rate and blood pressure and irritation of
4 the digestive and respiratory systems. Chronic
5 smoking can cause chronic bronchitis, emphysema,
6 lung cancer and may also lead to diseases of the
7 cardiovascular system. The Pure Food and Drug
8 Administration requires that all cigarette
9 manufacturers print a health warning on all
10 packages "Warning: The Surgeon General has
11 determined that cigarette smoking is dangerous to
12 your health." Did I read that correctly?

13 A. Yes, you did.

14 Q. This looks like it was part of the
15 Mississippi drug education teaching plan created
16 by the State Department of Education in 1972; does
17 it not?

18 A. Yes, it does.

19 Q. Now, this document, if you look at the
20 first page, there appears to have been stamped on
21 it, "Library, Mississippi State Board of Health,
22 Jackson, Mississippi." Do you see that?

23 A. Yes, I do.

24 Q. Is it safe to assume that this document
25 was in the files of the library of the Mississippi

1 correct?

2 -- A. That's correct.

3 Q. This -- look at page 133 of the article
4 in the left-hand column at the very bottom, the
5 last two lines on the page, that paragraph reads,
6 "The American public is aware of the dangers of
7 smoking. In a national sample of 12,000 people,
8 over 80 percent of respondents recognized that
9 smoking was detrimental to their health. Perhaps
10 for this reason the prevalence of smokers has been
11 declining steadily nationwide since 1964." Do you
12 see that language?

13 A. I do.

14 Q. And when you coauthored that article,
15 you agreed with that statement, correct?

16 A. Yes, I do -- did and do.

17 MR. MUNSON: Would you mark this as
18 Exhibit Number 23?

19 (Exhibit 23 marked for identification.)

20 Q. Take a minute to review Exhibit Number
21 23, please.

22 A. All right. (Examining.) All right.

23 Q. Have you had a chance to look at it?

24 A. I have.

25 Q. This is an article, Exhibit 23, is an

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1 State Board of Health in Jackson, Mississippi?

2 A. I would conclude from this that it was.

3 Q. And again, the document was written in
4 1972, correct?

5 A. That's the date on which it's listed as
6 being published.

7 Q. Correct. What I'd like to do now,
8 Dr. Thompson, is to shift gears a little bit, and
9 I've asked you a number of questions about the
10 State of Mississippi's awareness of tobacco and
11 health issues, and I'm going to ask some questions
12 in a slightly different area that go more to the
13 awareness of tobacco and health issues in the --
14 in the public, generally. It's just a little
15 change of topic and ask you some questions there.

16 Look again, if you would, at Exhibit 6.

17 A. All right.

18 Q. Exhibit 6 is an article published in the
19 Journal of the Mississippi State Medical
20 Association in May 1988. It's title is, "A
21 Burning Issue: Attitudes Towards Environmental
22 Tobacco Smoke." And you are listed as one of the
23 authors, along with Bruce Bracken and
24 Ellen Shea Jones, both of whom were then with the
25 Mississippi State Department of Health; is that --

1 article from the "Reader's Digest" entitled
2 "Cancer by the Carton," and it is condensed from
3 the -- a publication called "The Christian
4 Herald." Do you see that?

5 A. I do.

6 Q. Down on the very bottom of the page on
7 the left-hand side, it says underneath the text of
8 the article, it says, "Christian Herald,"
9 October," and it looks like a date, 50 something.
10 Can you make out what the date is?

11 A. I cannot.

12 Q. I can't, either. It appears as if this
13 article was published by the "Reader's Digest"
14 sometime in the early 1950s. Do you agree with
15 that?

16 A. Based on a statement in the second
17 column which reads, "The latest study which is
18 published in the Journal of the American Medical
19 Association, May 27, 1950" -- and it looks like
20 1950, 1950, or 1952, and I can't tell which it is,
21 if that was the latest study, I'd conclude, then,
22 that the publication date would be in the early
23 1950s of the article that refers to it.

24 Q. In this article on the second page of
25 the article, itself, which appears to be page 8 of

1 the article, in the left-hand column at the bottom
2 there's a paragraph that reads, "A study of 684
3 cases made by Earnest L. Wynder and
4 Evarts A. Graham for the American Cancer Society
5 and published in the AMA Journal May 27, 1950,
6 stated this conclusion, 'Excessive and prolonged
7 use of tobacco, especially cigarettes, seems to be
8 an important factor in the induction of
9 bronchiogenic carcinoma.'"

10 And then in the next paragraph, the
11 second half of the first sentence reads, "The more
12 a person smokes the greater is the risk of
13 developing cancer of the lung, whereas the risk
14 was small in nonsmokers or light smokers." Did I
15 read those correctly?

16 A. You did.

17 Q. Now, this article -- the language I just
18 read refers to an AMA Journal publication
19 May 27, 1950. So is that the same publication you
20 referred to in the first column?

21 A. It would seem so, but I don't -- all I
22 have here is a reference to that article on
23 May 27th of 1950, so I would assume that it's the
24 same one.

25 Q. It looks like it. I'm just trying to

1 focus in on the date. It appears that this
2 "Reader's Digest" article was published in early
3 19 -- in the early 1950s, correct?

4 A. Uh-huh, it does.

5 Q. The "Reader's Digest" was then in the
6 early 1950s a publication that had broad national
7 circulation in the United States; did it not?

8 A. I have always assumed that it did. I
9 can't speak to that from personal knowledge, but I
10 believe that it did.

11 Q. You don't have any reason to believe
12 that it didn't have broad circulation around the
13 country?

14 A. No, no, I certainly saw it in a lot of
15 places.

16 Q. Right. Next is Exhibit 24.

17 (Exhibit 24 marked for identification.)

18 A. (Examining.) All right. I've reviewed
19 this.

20 Q. Dr. Thompson, this is Exhibit 24, is a
21 three-page long article that is entitled, "The
22 Week's Topic A: How Do I Swear Off?" And under
23 that it says, "The Cancer Society's report linking
24 cigarettes to a shortened life." Do you see that?

25 A. I do.

1 Q. At the bottom of this first page written
2 in-hand it says, "July 5, 1954, 'LIFE.'" Do you
3 see that?

4 A. I do.

5 Q. In the first paragraph of this article,
6 it says -- it reads, "During the week, a startling
7 medical report about smoking was made public. To
8 comment on the effects of the report, 'LIFE'
9 called on the combined talents of two
10 ex-smokers." Do you see that language?

11 A. I do.

12 Q. It appears that this article is an
13 article from "LIFE" magazine. Do you agree with
14 that?

15 A. Yes, I do. It does appear that way.

16 Q. In the second paragraph of this
17 article -- well, there's a paragraph in italics,
18 and then there's a first paragraph not in italics
19 and then a second paragraph not in italics that
20 says, "The study began in November 1951," do you
21 see that?

22 A. I do.

23 Q. Required periodic checks in the lives of
24 some 200,000 male smokers and nonsmokers and was
25 to be completed in '56. But the results already

1 in, Hammond and Horn felt were so grave that they
2 felt it was imperative that they be announced at
3 once." Do you see that language?

4 A. Yes, I do.

5 Q. Now, this article doesn't show a date on
6 which it was published, but it appears that it was
7 published sometime after November 1951 when that
8 study began and sometime before 1956 when it
9 originally was to have been completed. Do you
10 agree?

11 A. I would agree.

12 Q. So that, as a result, this article in
13 Exhibit 24 was of -- this issue of "LIFE" magazine
14 with this article was published sometime after '51
15 and before 1956, correct?

16 A. I would agree.

17 Q. Now, let's look at a couple --

18 A. Can I ask a stupid question?

19 Q. Sure.

20 A. Why not just look at the cover of the
21 magazine?

22 Q. That's a fair question. I don't have
23 the cover of the magazine with me.

24 A. It's attainable at the library. Like I
25 said, I was just curious.

1 Q. I apologize for not having the cover
2 with me, but I don't right now.
3 A. All right.
4 Q. So we have to try to figure out from the
5 article when it was published, and I think we
6 probably have.
7 In the article, itself, on the second
8 page of the article -- it's actually the first
9 sentence on the second page of the text. It says,
10 "For while tobacco in the medical sense is not
11 addictive or habit forming, it often has an iron
12 grip on its habitual users." Do you see that
13 language?
14 A. I do see that.
15 Q. And on the next page of this article in
16 about the middle of the page, should be on the
17 third page of the article, there's a paragraph,
18 the first sentence of which reads, "The
19 difficulties of giving up smoking have been so
20 widely discussed, many smokers believe it is
21 virtually impossible."
22 And then the next paragraph, the first
23 sentence reads, "Actually, it is quite possible to
24 give up smoking." Do you see that?
25 A. Wait. Run that by me again, please, the

1 whole question if you can.
2 Q. Let me start -- I'll start at the
3 beginning. We're on --
4 A. The third page.
5 Q. We're on Exhibit Number 24 which is the
6 "LIFE" magazine article from sometime in the
7 early 1950s. On the third page of this article in
8 the middle of the page, the one, two, three,
9 fourth paragraph on the page, the first sentence
10 of that paragraph reads, "The difficulties of
11 giving up smoking have been so widely discussed
12 many smokers believe it is virtually impossible."
13 Do you see that language?
14 A. I do.
15 Q. The next paragraph, the first sentence
16 reads, "Actually, it is quite possible to give up
17 smoking." Do you see that?
18 A. I see that.
19 Q. And again, this article in "LIFE"
20 magazine was published sometime in the early
21 1950s. We agree; do we not?
22 A. We do.
23 Q. And "LIFE" magazine was a magazine that
24 was widely circulated around the country; was it
25 not?

1 A. I believe that it was.
2 -- Q. Actually, you and I are both old enough
3 to remember that it was.
4 A. I have seen it on coffee tables I know.
5 (A short break was taken.)
6 (Exhibit 25 marked for identification.)
7 Q. I think we're on number 25.
8 A. "Jackson Daily News." (Examining.) All
9 right. I've reviewed it.
10 Q. Exhibit Number 25 is a copy of a
11 newspaper article dated January 12, 1964, from
12 "The Jackson Daily News," is that correct?
13 A. That's what it appears to be.
14 Q. And the article is entitled "Blue Ribbon
15 Jury Finds Smoking Health Hazard," correct?
16 A. That's correct.
17 Q. And it goes on to say, "Cause of Lung
18 Cancer, Other Deadly Diseases." And then the
19 first paragraph of the story reads, "A blue ribbon
20 jury of medical scientists Saturday returned a
21 unanimous verdict that cigarette smoking is a
22 cause of lung cancer and several other deadly
23 diseases." Did I read that correctly?
24 A. Yes, you did.
25 Q. And this article was published in the

1 "Jackson, Mississippi Daily News,"
2 January 12, 1964; is that right?
3 A. That's what the indication on the head
4 of the article is.
5 Q. Is the "Jackson Daily News" now one of
6 the newspapers of record in Jackson, Mississippi?
7 A. No, it's no longer published.
8 Q. In 1964, was it one of the principal
9 newspapers in Jackson, Mississippi?
10 A. Yes, it was.
11 Q. How many newspapers were there -- major
12 newspapers were there in 1964 in Jackson?
13 A. I know of two. Now, bear in mind, I was
14 in high school at that time, and not very
15 concerned with newspapers and other sources of
16 accurate information or inaccurate information.
17 "The Clarion-Ledger" and the "Jackson Daily News"
18 were both being published at that time. There may
19 have been others that I'm not aware of, but those
20 two I know were.
21 Q. The "Jackson Daily News" and the Jackson
22 "Clarion-Ledger" were two of the major papers
23 published in Jackson in 1964?
24 A. That is correct.
25 Q. It appears as if this story that we're

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1 talking about here on Exhibit Number 25 was on the
2 front page of the paper; is that correct?

3 A. Certainly looks that way.

4 Q. And they're big headlines?

5 A. Yes, I can read them without my glasses,
6 so it's a pretty big headline.

7 Q. So could I, so they must be big. Looks
8 like this was a major story that was covered in
9 the Jackson newspapers in 1964; does it not?

10 A. It certainly appears quite prominently
11 on the front page.

12 Q. Let's look next at Exhibit Number 26.
13 (Exhibit 26 marked for identification.)

14 A. (Examining.) All right.

15 Q. This is a copy of an article from the
16 "Delta Democrat Times" which appears to be a
17 newspaper published in Greenville, Mississippi,
18 dated Sunday, January 12, 1964, and the article at
19 the top of the page says, "Government Report Brand
20 Cigarettes as Major Health Menace." Do you see
21 that?

22 A. Yes, I do.

23 Q. The first two paragraphs of this article
24 read, "A 10-man government committee said
25 yesterday cigarette smoking is a health hazard

1 A. I do.

2 Q. Title of the article, and looks like
3 there are two smaller articles underneath it. One
4 on the left side is called "Press Conference."
5 The other on the right side is called "Banquet
6 Address." Do you see that?

7 A. Yes.

8 Q. It appears to be dated in the upper
9 right-hand corner Friday, March 22, 1974. Do you
10 see that?

11 A. I do.

12 Q. And in the part of the article on the
13 left-hand side entitled "Press Conference" --
14 well, actually "Press Conference" and "Banquet
15 Address," it lists the authors of the articles and
16 then identifies them both as "Clarion-Ledger staff
17 writers." Do you see that?

18 A. I do.

19 Q. Now, is it fair to assume that this
20 article was written by Jackson "Clarion-Ledger"
21 staff writers and published in the Jackson,
22 Mississippi, "Clarion-Ledger" newspaper?

23 A. Right. Based on what you've told me,
24 plus information contained in some of the ads that
25 are fragmentarily presented on the same page

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1 which needs appropriate remedial action. The
2 150,000 word report said cigarette smoking is
3 usually related to lung cancer in men and is the
4 most important of the causes of chronic bronchitis
5 and emphysema." Do you see that?

6 A. Yes, I do.

7 Q. And those statements were made in this
8 "Delta Democrat Times" newspaper article
9 published on Sunday, January 12, 1964, correct?

10 A. Right above the headline that says you
11 can't vote unless you've paid your poll tax and
12 another that says, "LBJ Plans Drive for Medicare"
13 on January the 12th, 1964.

14 Q. Exactly right. So it was a long time
15 ago, way back in 1964 that these statements were
16 reported on the front page of the "Delta Democrat
17 Times", correct?

18 A. That's correct.

19 MR. MUNSON: This is number 27.

20 (Exhibit 27 marked for identification.)

21 A. (Examining.)

22 Q. Let me ask you a couple of questions
23 about Exhibit number 27. This is a newspaper
24 article entitled, "Luther Terry Rallies
25 Anti-Smoking Troops." Do you see that?

1 indicate that this is a Jackson newspaper. I
2 would conclude that that's the case.

3 Q. Do you know who Luther Terry was?

4 A. Luther Terry was the Surgeon General at
5 the time the Surgeon General's report on smoking
6 and health was -- that we've been discussing and
7 from which some of the information and some of the
8 exhibits that you've presented me was taken.

9 Q. So he was the Surgeon General of the
10 United States in 1964?

11 A. I think he was still Surgeon General
12 then, yes. At the time the report was -- at the
13 time the report was issued he was Surgeon
14 General. Sometime subsequent to that, he ceased
15 to be. I don't know how much longer he remained
16 Surgeon General.

17 Q. The article states on the -- well, the
18 article states in the "banquet address" section of
19 it in, I guess, the third paragraph it says,
20 "Dr. Terry, Surgeon General of the United States
21 under Presidents Kennedy and Johnson was
22 instrumental 10 years ago in getting the
23 'hazardous to your health' warning put on
24 cigarette packages." Do you see that language?

25 A. I do.

1 Q. So if the article was written in 1974,
2 that means that it was 10 years before that in
3 1964 that the warning was put on the cigarette
4 packages, correct?
5 A. I would agree with that, yes.
6 Q. Then if you look at the -- at the
7 portion of the article called "Press Conference"
8 in the left-hand column and read down towards the
9 bottom, there's a paragraph that reads, "Since the
10 first warning message appeared" -- which we agreed
11 a minute ago was in 1964, correct?
12 A. We did, but I can't --
13 Q. I know, it's hard -- it's hard to read.
14 A. I see the paragraph you're referring to.
15 Q. Let me try to read the whole thing
16 allowed without interruption. And I agree with
17 you, it's hard to read. I think it reads, "Since
18 the first warning message appeared, 90 percent of
19 the population has become aware of the health
20 hazards involved in smoking, said Dr. Terry." Do
21 you think I read that correctly?
22 A. Looks like it to me.
23 Q. And then, this article was published in
24 the Jackson, Mississippi, "Clarion-Ledger" in
25 March of 1974, correct?

1 A. That appears to be correct.
2 Q. Let's go back to Exhibit 8 for a second
3 if we may. This is the article that we discussed
4 before written by Ellen Shea Jones from the
5 Mississippi Department of Health. Do you recall
6 that?
7 A. I do.
8 Q. That was written in 1989. And what I
9 wanted to do is to ask you to look at the first
10 page of this report which is numbered page 33, of
11 this article, rather, page 33, the last full
12 paragraph on the page reads, "But the Surgeon
13 General's report on smoking and health introduced
14 a new era. The report was the first widely
15 advertised official recognition that smoking is a
16 major cause of cancer of serious illness and
17 premature death. During the quarter century since
18 that report, Americans attitude towards tobacco
19 have changed dramatically. More importantly adult
20 smoking rates have declined sharply from 40 to 27
21 percent." Do you see that language?
22 A. I do.
23 Q. And that was published in 1989, correct?
24 A. That is apparently the case.
25 Q. What I'd like to do now is to change

1 topics a little bit and ask you some questions
2 about Mississippi's treatment of tobacco products
3 in terms of regulation and issues like that if I
4 may.
5 And first what I'd like you to do is to
6 look back at Exhibit Number 2 which we discussed
7 before. You've reviewed this earlier today, I
8 believe.
9 A. Yes.
10 Q. This Exhibit Number 2. Exhibit Number
11 2, again, is the June 7, 1993, grant application
12 from the Mississippi Department of Health to the
13 Centers for Disease Control and Prevention for a
14 planning grant that you -- that was sent to the
15 Centers for Disease Control along with a cover
16 letter from yourself dated June 7, 1993, correct?
17 A. That's correct.
18 Q. If you look at the first page of the --
19 the first page of the grant application, page
20 numbered number 1. At the top of the page, there
21 is a letter A, and it says, "Background and needs
22 statement," do you see that?
23 A. I do.
24 Q. And then towards the -- just below the
25 middle of the page, there's a heading that's

1 underlined that says, "Mississippi's Tobacco
2 Control Needs." Do you see that?
3 A. I do.
4 Q. And it then -- the grant application
5 then lists "Mississippi's Tobacco Control Needs"
6 as, "A clean indoor air act, a statewide tobacco
7 controlled coalition, a state tobacco control
8 plan, restrictions on tobacco advertising,
9 enforcement of the law that prohibits sale or
10 distribution of tobacco products to minors, and
11 comprehensive school health curriculum with a
12 tobacco component." Did I read that correctly?
13 A. Yes, you did.
14 Q. And it's correct that as of
15 June 7, 1993, those things were among
16 Mississippi's tobacco control needs; is that
17 correct?
18 A. That is correct with some, I guess,
19 limitations in that to the extent that it is
20 correct that the State needed these things. It is
21 not, therefore, to be concluded that the State did
22 not have any of these things. In the sense that I
23 may need a car, even though I already have a car,
24 I need a new one, I need a better one, I need one
25 that will meet my needs more effectively. I do

1 need a car, but it doesn't indicate I do not
2 already have one.
3 Q. Just so we're clear, in this grant
4 application to the Centers of Disease Control in
5 June of 1993, at page 1, you wrote -- there was a
6 heading here that said, "Mississippi's Tobacco
7 Control Needs," what I read to you a minute ago,
8 and what I read is listed under that heading; is
9 that correct?
10 A. That is correct.
11 MR. MUNSON: This will be Exhibit
12 Number 28, I believe.
13 (Exhibit 28 marked for identification.)
14 A. (Examining.)
15 Q. Have you had a chance to review this?
16 A. Yes.
17 Q. Exhibit 28 is a document entitled,
18 "Morbidity and Mortality Weekly Report." It's
19 dated November 3rd, 1995, and at the top
20 right-hand side it says, "CDC Surveillance
21 Summaries." Do you see that?
22 A. I do.
23 Q. The CDC stands for Centers for Disease
24 Control; is that correct?
25 A. That's correct.

1 Q. At the bottom of the page it says U. S.
2 Department of Health and Human Services, Public
3 Health Centers for Disease Control; is that right?
4 A. That is correct.
5 Q. And it's dated November 3rd, 1995, at
6 the top; is it not?
7 A. Yes, it is.
8 Q. So this is a November 3rd, 1995,
9 publication of the federal Centers for Disease
10 Control that's named "Morbidity and Mortality
11 Weekly Report, correct?
12 A. That's correct.
13 Q. And the title of this specific report on
14 the first page sort of in the middle is "State
15 Laws on Tobacco Control, United States, 1995;" is
16 it not?
17 A. I do have to correct my previous
18 answer. This is not an issue of the MMWR
19 Morbidity and Mortality Weekly Report. This is a
20 surveillance summary. It was published,
21 apparently, on the date listed on the cover, but
22 it is not an issue of that document. It is a
23 separate series of publications by the MMWR. In
24 this case, it's in the surveillance summary
25 series.

1 Q. Just so we're clear we understand,
2 there's something called the "Morbidity and
3 Mortality Weekly Report" which is a weekly report?
4 A. Right, and it comes out every week.
5 Q. Comes out every week?
6 A. The MMWR, "Morbidity and Mortality
7 Weekly Report, also publishes sporadic summaries
8 of various public health issues, of which this is
9 one.
10 Q. So this is a -- this surveillance
11 summary is a -- of a separate publication of the
12 "Morbidity and Mortality Weekly Report;" is that
13 right?
14 A. Right.
15 Q. And this surveillance summary is called
16 "State Laws on Tobacco Control, United States
17 1995;" is that right?
18 A. That's correct.
19 Q. Look at the last page of this document.
20 There's an entry on the right-hand side that says,
21 "State and territorial epidemiologists and
22 tobacco control coordinators." Do you see that?
23 A. I do.
24 Q. It says "State and territorial
25 epidemiologists and tobacco control coordinators

1 are acknowledged for their contributions to CDC
2 surveillance summaries. The epidemiologists
3 listed below are in the positions shown as of
4 June 1995." And in the left-hand column it shows
5 Mississippi epidemiologist, Mary Currier, M.D.,
6 MPH. again, that's medical doctor, masters in
7 public health; is that correct?
8 A. That's correct.
9 Q. And under the column "Tobacco Control
10 Coordinators," it lists Cheryl Grubbs; is that
11 correct?
12 A. That's correct.
13 Q. So were these people from the
14 Mississippi Department of Health, Mary Currier and
15 Cheryl Grubbs, the people who made contributions
16 to these surveillance summaries that were
17 published from time-to-time?
18 A. They would have been among those who
19 did, yes.
20 Q. So some of the data that was collected
21 for this surveillance summary or other
22 surveillance summaries came from Mississippi,
23 people at the Mississippi State Department of
24 Health, correct?
25 A. I can say that with certainty for the

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1 regular MMWR weekly publication. Whether or not
2 the information in this document came directly
3 from state sources or at least sources within the
4 Department of Health as opposed to other sources
5 of information about laws that exist in the State,
6 I can't say with certainty.

7 I would imagine that our staff members,
8 including those listed here, contributed at least
9 something to this report, but I can't guarantee
10 that that was the case. I don't know of my own
11 personal certainty.

12 Q. You have no reason to believe that they
13 didn't contribute something?

14 A. No, I do not.

15 Q. Well, let's look at a little -- a couple
16 of things in the report and what it says. Look
17 first at table 3-A which is on page 16.

18 MS. MULLERY: Do you have page 60?

19 A. It turns backwards in mine. Maybe it
20 turns backwards in yours, too.

21 Q. (By Mr. Munson) Table 3-A on page 16,
22 do you have that?

23 A. I do.

24 Q. It's entitled, "States with Laws and
25 Sales of Tobacco Products to Minors as of

1 Mississippi that the minimum age for legal sale in
2 years is 18, correct?

3 A. That's correct.

4 Q. And then if you go over a few columns,
5 you get to the column that says, "Prohibits
6 Purchase, Possession and/or Use by Minors," the
7 answer is "no;" is that correct?

8 A. That is what it says, yes.

9 Q. And it's true, is it, that as of
10 June 30, 1995, in Mississippi, there was no
11 prohibition against a minor in Mississippi buying
12 or possessing or using tobacco products?

13 A. No, that's not, to my knowledge. The
14 statement here is that "It prohibits purchase,
15 possession and/or use." My understanding is that
16 Mississippi law prohibited purchase by a minor, or
17 more properly sale to minors.

18 Q. That's the difference I'm getting at.
19 There's some differences in that between something
20 being illegal to sell on the one hand and
21 something being illegal to buy on the other.

22 A. Then in that sense, my knowledge of the
23 law is that it did not prohibit the minor from
24 making the purchase --

25 Q. Correct.

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1 June 30, 1995." Do you see that?

2 A. I do.

3 Q. And then it has a series of headings
4 across the top that includes an entry for the name
5 of the state. Do you see that?

6 A. Yes.

7 Q. Another column, "Minimum Age for Legal
8 Sale," do you see that?

9 A. I do.

10 Q. Then over a few there's a column that
11 says, "Penalties for First Violation to Business
12 Owner," do you see that?

13 A. I do.

14 Q. And then there's a column that says,
15 "Prohibits Purchase, Possession and/or Use by
16 Minors." Do you see that?

17 A. I do.

18 Q. And then going back over to the
19 left-hand side of the page, the column with "State
20 Names," do you see that?

21 A. I do.

22 Q. Then there's Mississippi, which is about
23 two-thirds, three-quarters of the way down?

24 A. Right, I see it.

25 Q. On that table 3-A, and it shows for

1 A. -- But it prohibited anyone from selling
2 it to the minor.

3 Q. Correct.

4 A. The penalty and the prohibition was on
5 the part of the person who would do the selling,
6 not to the minor. It was not legal for minors to
7 purchase cigarettes, because for someone to sell
8 that minor a cigarette constituted a violation of
9 the lawful.

10 Q. Well, again, though, isn't it correct
11 that in Mississippi as of June 30, 1995, it was
12 illegal to sell tobacco products to someone under
13 the age of 18?

14 A. That is correct.

15 Q. Correct? Is it not also true that there
16 was no law prohibiting someone under the age of 18
17 from buying, possessing or using tobacco?

18 A. That is my understanding of the law at
19 that time.

20 Q. And that's what this chart shows,
21 correct?

22 A. That's correct.

23 Q. Also on this chart, it shows -- there's
24 a column for "Penalties for first violation to
25 business owner, manager and/or clerk." Do you see

1 that?
2 A. I do.
3 Q. And it lists -- well, let's look at the
4 Mississippi entry first. And you read across to
5 the column that says penalties, and the entry for
6 Mississippi is misdemeanor fine of \$20 to \$100,
7 correct?
8 A. That's correct.
9 Q. And as of June 30, 1995, that was the
10 penalty for a first violation for selling tobacco
11 to a minor in Mississippi; is that correct?
12 A. That is correct.
13 Q. Now, there are some other states where
14 the penalty is much higher, are there not?
15 For example, let's just go down the list
16 and look at a few. In Alaska, the fine was at
17 least \$300, correct?
18 A. That's correct.
19 Q. That was higher than Mississippi,
20 correct?
21 A. That's correct.
22 Q. In California, the fine was \$200 to
23 \$300, correct?
24 A. That's correct.
25 Q. Again, higher than Mississippi, right?

1 A. That's correct.
2 Q. In Colorado, the fine was \$200, correct?
3 A. That's correct.
4 Q. Higher than Mississippi, correct?
5 A. That's correct.
6 Q. In Florida, the fine was \$500, correct?
7 A. That is correct.
8 Q. Again, higher than the fine in
9 Mississippi, correct?
10 A. That's correct.
11 Q. In Illinois, there's a fine of \$200,
12 correct?
13 A. That's what the chart says.
14 Q. Higher than Mississippi, correct?
15 A. That's correct.
16 Q. Iowa, fine of \$300, correct?
17 A. That's correct.
18 Q. Higher than Mississippi, correct?
19 A. Yes, that's correct.
20 Q. Now, we don't need to go through and
21 read all of these, but there are a few others.
22 A. I note, with interest, that those that
23 you read were only those with higher fines. There
24 are a number in the chart that had lower fines.
25 Q. Quite right. I was intentionally

1 reading those with higher fines just to make the
2 point that there were states that had much higher
3 fines than the fine in Mississippi. I wasn't
4 intending to be misleading. There are some with
5 even lower fines.
6 A few of the others with higher fines,
7 just to touch on them, Kansas had a fine up to
8 \$1,000, correct?
9 A. That's what the chart reflects.
10 Q. And again, higher than Mississippi. New
11 Mexico had a fine up to \$1,000, correct?
12 A. That is correct.
13 Q. North Carolina, fine up to \$500,
14 correct?
15 A. That is correct.
16 Q. Tennessee, fine up to \$2,500, correct?
17 A. That is correct.
18 Q. And Wisconsin, my home state, fine up to
19 \$500, correct?
20 A. That is correct.
21 Q. There's a column on this chart that
22 says, "License suspension or revocation for
23 violation." Do you see that?
24 A. I do.
25 Q. And then there is a listing that

1 indicates whether -- if a seller of tobacco
2 products violates the minor sales law whether
3 their license can be suspended or revoked or not,
4 correct?
5 A. That's correct.
6 Q. And it shows that in Mississippi there
7 was no such license suspension or revocation for
8 violating the sale to minors statute, correct?
9 A. The chart does show that Mississippi,
10 like what appears to be the great majority of
11 states, did not have license suspension for
12 revocation -- or revocation for violation of the
13 statute.
14 Q. Correct. There are many states where
15 there is no such license suspension or
16 revocation. But there are some where there is
17 that provision, correct?
18 A. I count 11 such states out of the 50,
19 but I could have counted wrong.
20 Q. But there are -- by your reckoning,
21 there are about 11 states where if you violate a
22 law against selling tobacco to minors you can lose
23 your license by suspension or revocation, correct?
24 A. That's what seems to be reflected in
25 this chart, yes.

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1 Q. Mississippi was not one of those 11
2 states, correct?
3 A. No, it was not.
4 Q. Let's go back to Exhibit Number 2 for a
5 moment, page 64.
6 Now, Exhibit 2, again, is this
7 June 7, 1993, letter from you, the State Health
8 Officer, to the Centers for Disease Control
9 enclosing an application for a planning grant; is
10 that correct?
11 A. That is correct, yes.
12 Q. And on page 64 -- on page 64 of the
13 actual grant application, there is a lettered
14 entry that says "Factors that Contribute to the
15 Proliferation of Tobacco Use," correct?
16 A. That's correct.
17 Q. At the bottom of the page there's a
18 sentence that says, "The State has an extremely
19 weak law prohibiting sale of tobacco to minors and
20 enforcement is nonexistent." Am I reading that
21 correctly?
22 A. I'm sorry.
23 Q. It's on page 64.
24 A. I'm trying to find the context of this.
25 That is the statement that is on the bottom of

1 Ellen Jones, correct?
2 -- A. That's correct.
3 Q. Ellen Jones worked for the Mississippi
4 State Department of Health in March of 1994 as
5 well?
6 A. She did.
7 Q. Do you know what -- do you recall what
8 her job was?
9 A. She was Director of our Health Education
10 Programs.
11 Q. In this memo, Cheryl Grubbs says,
12 "Mississippi has a law that restricts sale or
13 distribution of tobacco products to minors. As
14 with most states, that law is not enforced." Do
15 you see that statement?
16 A. I do see that statement.
17 Q. This memo, incidentally, appears to have
18 been written as part of Cheryl Grubbs' official
19 responsibilities for the Mississippi Department of
20 Health; does it not?
21 A. It's difficult for me to know, in that
22 normally our staff when they write materials as
23 part of their official duties do so on letterhead
24 stationery, and the document that you've given me
25 is on plain paper with no letterhead. The context

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1 page 64.
2 Q. Let's look next at what I will mark as
3 Exhibit 29; is that correct?
4 (Exhibit 29 marked for identification.)
5 Q. Will you take a look at Exhibit 29 when
6 you have a moment.
7 A. (Examining.) All right.
8 Q. This is a memo from Cheryl Grubbs to
9 Therese Hanna dated March 10, 1994. And the
10 subject is the Synar Amendment, Section 1926 of
11 the Public Health Service Act.
12 Cheryl Grubbs, in March of 1994, worked
13 for the Mississippi State Department of Health;
14 did she not?
15 A. She did.
16 Q. What was her job?
17 A. She was the Director of our Tobacco
18 Control Program.
19 Q. And Therese Hanna worked for the
20 Mississippi State Department of Health as well?
21 A. She did.
22 Q. What was her job?
23 A. She was Director of the Office of Policy
24 Planning and Analysis.
25 Q. And a copy of this was sent to

1 of the information in the memorandum sounds as if
2 it would be part of her official duties, but it is
3 not on official letterhead which is a little
4 surprising.
5 Q. But it doesn't sound like a personal
6 note, does it?
7 A. No, it does not.
8 Q. Sounds like pure business, doesn't it?
9 A. Certainly -- certainly has that tone to
10 the content.
11 Q. A business tone?
12 A. Yes.
13 (Exhibit 30 marked for identification.)
14 A. (Examining.) How much of this do you
15 want me to review? It's about an inch and a half
16 thick?
17 Q. I --
18 A. Do you want to just pick a section you
19 want to talk about.
20 Q. I'm going to ask you a couple of little
21 questions on some very small portions that -- I
22 tell you, I'm going to ask you questions about --
23 on page 61, there's a section that begins --
24 that's entitled, "History and Current Status."
25 And I'm going to ask you a couple of little

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1 questions there and nothing else.
 2 A. All right. I'm on page 61.
 3 Q. I meant to say 61 and 62?
 4 A. I'm on page 61 now.
 5 Q. Correct. I was just going to suggest if
 6 you wanted to look at 61 and 62 before I asked you
 7 the question, then there would be a little bit of
 8 context.
 9 A. (Examining.)
 10 Q. Let me first ask you -- I'm sorry. Have
 11 you had a chance to look at that yet?
 12 A. Not completely, no.
 13 Q. Go ahead.
 14 A. (Examining.) All right. Beginning with
 15 page 61 and through about 63, I've reviewed the
 16 material.
 17 Q. Thank you. First, what I wanted to ask
 18 you is a little bit about what this document is.
 19 On the first page, the very first page
 20 of the Deposition Exhibit, it -- it says,
 21 "American stop smoking intervention study,
 22 Mississippi State Department of Health, technical
 23 proposal copy." Do you see that?
 24 A. I do.
 25 Q. And then the next page, if you turn that

1 62.
 2 A. That's all right. I was in the back on
 3 a page numbered 41. So it threw me for a minute.
 4 All right.
 5 Q. Page 94 and 95 appear to be a copy of a
 6 letter from -- to Cheryl Grubbs, Smoking
 7 Prevention Coordinator, Mississippi State
 8 Department of Health, from Jud Allred, Chairman
 9 Mississippi Council for a Tobacco Free Society.
 10 Do you see that?
 11 A. That's correct. I do see that, yes.
 12 Q. First sentence of the letter says, "The
 13 Mississippi Council for a Tobacco Free Society is
 14 pleased to learn that the Office of Health
 15 Promotion and Education with Mississippi State
 16 Department of Health is preparing a proposal for a
 17 grant sponsored by the National Cancer Institute
 18 in the Centers for Disease Control. We
 19 wholeheartedly support the goals of ASSIST
 20 American Stop Smoking Intervention Study to
 21 accelerate the reduction in tobacco use by
 22 applying approved tobacco control measures through
 23 regional tobacco control coalitions."
 24 Now, this suggests, does it not, that
 25 this application, Exhibit 30, was to the National

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1 very first page over, says, "American stop smoking
 2 intervention study, for cancer prevention,
 3 technical proposal copy, submitted by Mississippi
 4 State Department of Health." And then it's signed
 5 by Alton B. Cobb, State Health Officer, dated
 6 9/21, and is that 1990?
 7 A. It appears to be.
 8 Q. Now, do you know to whom this technical
 9 proposal was submitted?
 10 A. This is a document with which I'm not
 11 familiar, so I'd have to learn that from somewhere
 12 in the document.
 13 Q. Does it -- on the second page near the
 14 top, it says, "American stop smoking intervention
 15 study for cancer prevention," and then under that,
 16 it says "NCI." Does that mean National Cancer
 17 Institute?
 18 A. My first guess would be that's what it
 19 means. I imagine it could be determined by
 20 looking at some of the subsequent pages in the
 21 document.
 22 Q. Look at, if you would, page 94 of this
 23 Exhibit 30.
 24 A. Page 94?
 25 Q. Yes, sir. I apologize. It's not 61 or

1 Cancer Institute and the Centers for Disease
 2 Control?
 3 A. That and some other letters also
 4 contained in the application referring to the
 5 grant application as one to the National Cancer
 6 Institute would indicate that was the body to
 7 which the application was being made.
 8 Q. So in short, Exhibit 30, you believe,
 9 was an application for a grant by the Mississippi
 10 State Department of Health to the National Cancer
 11 Institute, correct?
 12 A. That certainly is what it appears to
 13 be. I would conclude that it is.
 14 Q. Okay. Then let's look at pages 61 and
 15 62.
 16 A. All right.
 17 Q. Do you have page 61?
 18 A. I do.
 19 Q. There's a heading on page 61 about
 20 two-thirds of the way down called, "History and
 21 Current Status," do you see that?
 22 A. I see that.
 23 Q. Right after that, there are a couple of
 24 sentences, a few sentences that read, "Mississippi
 25 has had weak laws and virtually no enforcement of

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1 legislative mandates related to tobacco. The
2 existing laws do not prohibit smoking in public
3 places, although legislation has been proposed
4 each year since 1986. The only law is one that
5 relates to minors. In Mississippi it is against
6 the law to sell, barter, deliver, or give
7 cigarettes, smoking tobacco, or snuff to any child
8 under the age of 18. The law was, until recently,
9 unrecognized." Do you see that?

10 A. I do.

11 Q. On page 62, the last paragraph on the
12 page reads, in the first sentence, "From the above
13 examples it is easy to see that the restriction of
14 tobacco use and the sale to minors has not been a
15 priority in Mississippi." Do you see that
16 language?

17 A. I do see that language.

18 Q. In this grant application that we're
19 talking about, Exhibit 30, this was prepared by
20 the Mississippi State Department of Health; was it
21 not?

22 A. It was prepared by a unit of the
23 Department, yes.

24 Q. By employees of the Mississippi State
25 Department of Health, correct?

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1 A. As far as I can tell from the document,
2 that seems to be the case.

3 MR. MUNSON: This will be Exhibit 31.
4 (Exhibit 31 marked for identification.)

5 A. (Examining.) All right.

6 Q. Have you looked at this?

7 A. I have.

8 Q. Exhibit Number 31 is a document on
9 Mississippi State Department of Health
10 stationery. It is addressed to Dr. Thompson from
11 Ellen Jones, dated September 23 -- September 24,
12 1993, correct?

13 A. That's correct.

14 Q. The Dr. Thompson, I take it, is you?

15 A. Yes, it is.

16 Q. And the -- the letter says it is about a
17 joint letter with MSDMH to Attorney General Mike
18 Moore. What is MSDMH?

19 A. Mississippi State Department of Mental
20 Health.

21 Q. And the memo -- do you recall receiving
22 this from Ellen Jones on or about
23 September 24, 1993?

24 A. In all honesty, no, I don't. Until I
25 look at the document and then I recognize it as

1 one that I've seen. But prior to looking at the
2 document, I would not been able to say I recall it
3 specifically.

4 Q. But seeing it it refreshes your
5 recollection that you did receive it?

6 A. Yes, it is something I recognize as
7 something that I have seen in the past.

8 Q. The first paragraph of this memo reads,
9 "As you may know, the Synar Amendment, S 1926 of
10 the Public Health Service Act requires states
11 receiving substance abuse, prevention, and
12 treatment block grant funds to address sale and
13 distribution of tobacco products. State laws must
14 include provisions in FY '94." FY means fiscal
15 year '94?

16 A. Yes, it does.

17 Q. "In order to receive full funding
18 Mississippi must actively pursue such legislation
19 in the upcoming legislative session."

20 The Synar Amendment is a federal law; is
21 that right?

22 A. Yes, it is. It is a portion of a
23 federal -- federal law.

24 Q. So it was this federal law that required
25 states to address distribution of tobacco

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1 products, correct?

2 A. More properly, it required states to
3 demonstrate significant efforts to not only
4 address but to enforce tobacco restriction --
5 restrictions on tobacco sales to minors.

6 Q. Right. Thus, the third paragraph of the
7 letter or the memo to you from Ellen Jones says,
8 "In order to move forward, we need to examine
9 enforcement issues, and we'll need the assistance
10 of the Attorney General's office. Enforcement
11 presents a unique problem in Mississippi as many
12 agencies will be impacted. Currently no agency is
13 charged with this responsibility." Do you see
14 that language?

15 A. I do.

16 MR. MUNSON: Will you mark this as 32?
17 (Exhibit 32 marked for identification.)

18 A. (Examining.) All right.

19 Q. You've had a chance to look at
20 Exhibit 32?

21 A. Yes, I have.

22 Q. Exhibit 32 is a September 29, 1993,
23 letter from F. E. Thompson, Jr., M.D., MPH. That
24 is you, correct?

25 A. That is me.

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1 Q. And Randy Hendrix, Ph.D., Executive
2 Director of Health; is that correct?
3 A. That's correct.
4 Q. It's a letter to Mike Moore, Attorney
5 General, Jackson, Mississippi; is that correct?
6 A. That is.
7 Q. This letter is about this Synar
8 Amendment that we were speaking about a few
9 minutes ago; is it not?
10 A. It is.
11 Q. The letter reads in the first paragraph,
12 "In 1991, Congress passed the Alcohol Drug Abuse
13 and Mental Health Administration Reorganization
14 Act. The act contains the Synar Amendment
15 requiring states to enact and enforce laws
16 prohibiting the sale of tobacco to minors or risk
17 cuts in federal block grant funding." Did I read
18 that correctly?
19 A. You did.
20 Q. It goes on, "In order to comply,
21 Mississippi agencies will need to aggressively
22 pursue laws/ordinances related to tobacco sales
23 and distribution." Is that what it says?
24 A. That's what it says.
25 Q. The next paragraph reads, "The

1 letterhead; is it not?
2 A. Yes, it is.
3 Q. And it's directed to all Sheriffs and
4 Chiefs of Police, State of Mississippi; is it not?
5 A. Yes, it is.
6 Q. And in the first paragraph of this memo,
7 Attorney General Moore writes, "I am writing to
8 ask for your help. While all of us are busy
9 fighting illegal drugs, gangs, and violent crime,
10 there is another violation of law that is often
11 overlooked, Mississippi's law regarding the sale
12 of tobacco to minors as found at Section 97-5-25
13 of the Mississippi Code." Do you see that
14 language?
15 A. I do.
16 MR. MUNSON: I need to take a short
17 break right now if I may.
18 (A short break was taken.)
19 Q. Let's look at Exhibit 34.
20 (Exhibit 34 marked for identification.)
21 A. (Examining.)
22 Q. Have you had a chance to look at this?
23 A. Yeah, I have.
24 Q. Exhibit 34 is two pages of what appears
25 to be a longer document, because these two pages

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1 Mississippi State Department of Mental Health is
2 well equipped to deal with prevention and
3 treatment of substance abuse. The Mississippi
4 State Department of Health has experience in
5 school and community based health promotion to
6 prevent tobacco use. Neither agency, however, has
7 enforcement authority or legal expertise in this
8 area." Do you see that language?
9 A. Yes, I do.
10 Q. And then the final paragraph on this
11 page says, "We would like assistance from your
12 office as we develop a plan to comply with
13 requirements of the Synar Amendment and offer
14 advice to local communities." Do you see that
15 language?
16 A. I do.
17 Q. Let's look next at Exhibit 33.
18 (Exhibit 33 marked for identification.)
19 A. (Examining.) All right.
20 Q. You've had a chance to look at
21 Exhibit 33?
22 A. Yes, I have.
23 Q. Exhibit 33 is a two-page document dated
24 April 6, 1994, State of Mississippi, Office of the
25 Attorney General, Mike Moore, Attorney General, —

1 are numbered 164 and 165 at the bottom. Do you
2 see that?
3 A. I see that.
4 Q. The first page of the document at the
5 top, it says, "Attachment 6, Tobacco Sales to
6 Minors and Law Enforcement." Do you see that?
7 A. I do.
8 Q. Then there's number 1 A, says "House
9 Bill Number 1268 was enacted by the Mississippi
10 legislature to prohibit the sale of tobacco
11 products to minors, and B, House Bill N 964 was an
12 attempt to refine the law to make more user
13 friendly".
14 And then number 2 says "State strategies
15 for enforcing the law prohibiting the sale of
16 tobacco products to minors."
17 And then number 3 says "FFY 1994
18 activities." Does that mean fiscal year 1994
19 activities?
20 A. The usually usage of this would be
21 federal fiscal year 1994.
22 Q. So this is, then, a report or this FFY
23 1994 activities, you think, means fiscal federal
24 year activities?
25 A. That's what I would assume from those

1 letters and the way I usually see them used.
 2 Q. The first paragraph under this FFY 1994
 3 activities says "On several occasions members of
 4 the department met with members of the
 5 Commissioner's department to discuss and plan the
 6 implementation of the law. The commissioner
 7 decided that a pilot project might be the best way
 8 to start developing the system. The attorney for
 9 the Department of Public Safety developed a
 10 checklist and a consent form to be used by the
 11 county and city officers. Copies of those forms
 12 are included. The Commissioner chose seven
 13 sheriffs and police Chiefs to start implementing
 14 the tasks." Are you familiar with what this is
 15 describing?

16 A. Only in a general sense, in that from
 17 what they say, I conclude that they're discussing
 18 the implementation of the requirements of the
 19 Synar Amendment, and I am at least, in general,
 20 familiar with those requirements. I'm not
 21 familiar with this document.

22 Q. I'm not asking you if you're familiar
 23 with the document. I'm just asking you if you're
 24 familiar with what's reported here as having
 25 happened?

1 A. I really am not.

2 Q. On the second page of this document, it
 3 says, "The pilot program initiated in federal
 4 fiscal year '94 did not provide the success we had
 5 envisioned." Can you tell from this Exhibit that
 6 it's the Mississippi Department of Health that
 7 wrote these two pages?

8 A. I do not believe that it was.

9 Q. Whom do you believe wrote it?

10 A. Again, concluding what I can from what's
 11 contained within the document, there's a
 12 reference -- there's a statement in the first
 13 paragraph on page 165 that says, "The Department
 14 of Health also worked with us in generating an
 15 awareness of the laws." That would lead me to
 16 believe that it was not written by the Department
 17 of Health.

18 Q. It was written by somebody other than
 19 the Department of Health?

20 A. The "us" with whom the Department of
 21 Health worked would most likely be the Department
 22 of Mental Health because they were the ones whose
 23 funding would be reduced if the State did not
 24 comply with the Synar Amendment.

25 Q. So the Synar Amendment said, "If you

1 don't do what you're supposed to do, State, in
 2 enforcing the tobacco laws, money that the State
 3 Department of Health gets will be reduced," is
 4 that correct?

5 A. Money that the State Department of
 6 Mental Health in Mississippi gets.

7 Q. Mental Health? Correct.

8 A. It's money for substance abuse, and in
 9 some states that goes to departments of mental
 10 health in other states it goes to departments of
 11 health. In Mississippi it does not come to the
 12 Department of Health unless we have some
 13 contractual arrangement with them for some special
 14 activity.

15 Q. So your best thought is that the two
 16 pages we're looking at here in Exhibit 34 were
 17 probably written by the Mississippi State
 18 Department of Mental Health?

19 A. I -- that would be my guess, yes.

20 Q. Now, in -- on the top of the second page
 21 of this document, numbered paragraph 4 it says,
 22 "Pilot program initiated in federal fiscal year
 23 1994 did not provide the success we had
 24 envisioned. It did not produce as many sting
 25 episodes as we had hoped it would."

1 These sting episodes, were these sting
 2 law enforcement situations where they were trying
 3 to catch people selling tobacco to under-aged
 4 children; is that right?

5 A. My understanding of these activities --
 6 and it's not from direct knowledge, but from what
 7 I simply have sort of generally heard is that the
 8 process was to have someone who was under the age
 9 of 18 attempt to purchase cigarettes under the
 10 observation of a law enforcement official and see
 11 if they were successful or not, and if they were
 12 to prosecute the sale.

13 Q. And that's what they meant by these
 14 sting episodes, correct?

15 A. I believe that's the case, yes.

16 Q. The next paragraph says, "Of the stings
 17 conducted 42 percent were successful attempts.
 18 There were no vending machine attempts. Forty-two
 19 percent of the stores did not have signs
 20 prohibiting the sale of tobacco products to
 21 minors. All attempts were at mini-marts .

22 And then this last sentence, "Of the 350
 23 checklists sent to seven sheriffs and police
 24 chiefs, only seven attempts were made. The pilot
 25 project did tell a different approach must be

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1 implemented immediately."

2 Does that mean that there were 350
3 checklists sent to seven sheriffs and police
4 Chiefs, but there were only seven sting attempts
5 made altogether?

6 A. Frankly, that sentence doesn't make
7 sense. It seems unlikely that 350 checklists
8 would have been sent to only seven sheriffs,
9 unless maybe I'm not reading something from the
10 previous page.

11 All right. From the previous page,
12 indicates that they chose seven sheriffs and
13 police Chiefs to start and then sent, presumably,
14 from this last paragraph, to those seven sheriffs
15 350 checklists. I don't know what a checklist is
16 in this case or what the checklist included on it
17 more properly. I know what a checklist is. It
18 would have -- I would guess -- and I'm only
19 guessing -- that each checklist would represent a
20 document to be used in a single sting operation.
21 And again, if that surmise is correct, then this
22 indicates that only seven actual attempts at sting
23 operations of this type were made.

24 Again, I'm putting this together from
25 what's contained here in these two pages.

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1 Q. Right, right. And that's what we're
2 trying to do. It sounds as if -- I mean, this is
3 a question: Does it sound here as if what
4 happened was the Mississippi Department of Mental
5 Health set up this pilot project to do some sting
6 attempts, and they chose seven sheriffs and police
7 Chiefs to work in this pilot project? They sent
8 them 350 individual checklist for individual sting
9 efforts? And what happened was as the document
10 says, only seven attempts were made; does that
11 sound right to you?

12 A. Sounds pretty much the case that only
13 seven attempts were made by the various local
14 sheriffs and police Chiefs through which this
15 first attempt at increased enforcement was made.

16 Q. And again, this was federal fiscal year
17 1994, and the federal fiscal year is different
18 from the Mississippi fiscal year?

19 A. It is.

20 Q. And that's why in this document about
21 this sting effort in Mississippi the writer refers
22 to a federal fiscal year to make it clear we're
23 talking about that time period, correct?

24 A. I would assume so, yes.

25 Q. Let's go back to Exhibit Number 28 for a

1 moment, please.

2 A. All right.

3 Q. What I want to look at for a moment is
4 table number 5 on page 23. Do you see table
5 number 5 on page 23?

6 A. I do.

7 Q. Exhibit 28 is this November 3, 1995,
8 publication of the Centers for Disease Control
9 "Morbidity and Mortality Weekly Report," and it's
10 a surveillance summary entitled "State Laws on
11 Tobacco Control, United States, 1995," correct?

12 A. Yes, that is correct.

13 Q. And table 5 on page 23 is entitled,
14 "State Tax and Tobacco Products and Effective
15 Year of Most Recent Tax Change as of
16 June 30, 1995," correct?

17 A. That is correct.

18 Q. And this table has a column for the
19 names of the states, correct?

20 A. That's correct.

21 Q. And then the tax on cigarettes per
22 package, correct?

23 A. That's correct.

24 Q. And then a column for effective year of
25 most recent tax change, correct?

1 A. That's correct.

2 Q. And for Mississippi the tax in cents per
3 package is 18 cents a pack; is it not?

4 A. That is correct.

5 Q. And as of June 30, 1995, the year of the
6 most recent change in that 18 cents per package
7 tax was 1985, correct?

8 A. That's what the table indicates, yes.

9 MR. MUNSON: Would you mark that as 35,
10 please?

11 (Exhibit 35 marked for identification.)

12 A. (Examining.)

13 Q. Have you had a chance to look at this?

14 A. The one page that pertains to
15 Mississippi I have.

16 Q. Okay.

17 A. Well, two pages pertain to Mississippi.

18 Q. This Exhibit Number 35 is a -- is a
19 document entitled, "State Tobacco Control
20 Highlights, 1996, U. S. Department of Health and
21 Human Services, Centers for Disease Control and
22 prevention," is it not?

23 A. Yes, it is.

24 Q. And this is a document that was prepared
25 by the Centers for Disease Control; is that right?

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1 A. That is correct.
 2 Q. And I take it what it does is to list
 3 certain information on state tobacco -- you know,
 4 various state's tobacco control circumstances
 5 around the country, correct?
 6 A. Addresses both that and current
 7 conditions of tobacco use in those states.
 8 Q. Let's look at page 124 if you would,
 9 please. Page 124 in the middle of the page,
 10 there's a heading that reads, "Cigarette excise
 11 taxes, December 1, 1995." Do you see that?
 12 A. I do.
 13 Q. And there's a three column chart there
 14 that says, "Rank, state and cents per pack,"
 15 correct?
 16 A. Yes, that's right.
 17 Q. And what this chart does is to rank the
 18 states in the country from the highest excise tax
 19 per pack to the lowest; is that correct?
 20 A. That is correct.
 21 Q. And it ranks Washington state number --
 22 and ranked number one is Washington state with an
 23 excise tax per package much 81.5 cents, correct?
 24 A. That is correct.
 25 Q. And Mississippi is 39th highest,

(Exhibit 36 marked for identification.)
 2 A. (Examining.)
 3 Q. I'm going to ask you a question about
 4 table 4 that's at page 4705 in the lower
 5 right-hand corner.
 6 A. All right.
 7 Q. Are you ready?
 8 A. I have it.
 9 Q. Exhibit 36 is a document entitled,
 10 "State Tobacco Use Prevention and Control
 11 Activities, Update Report, 1994." It appears to
 12 be published by the Association of State and
 13 Territorial Health Officers and dated
 14 January 1995.
 15 This is the same Association of State
 16 and Territorial Health Officers that you discussed
 17 earlier today; is that correct?
 18 A. Yes, it is.
 19 Q. And you've been a member of the
 20 Association of State and Territorial Health
 21 Officials organization?
 22 A. Yes, I have.
 23 Q. This document has a received
 24 January 24, 1995, Tobacco Prevention stamp on it.
 25 Do you see that? On the front page at the top.

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1 correct, with a cents per package excise tax of 18
 2 cents; is it not?
 3 A. Yeah, we're tied with Montana for 39th
 4 place.
 5 Q. That's what the list shows; does it not?
 6 A. Yes.
 7 Q. So what that means is that there are 38
 8 states with excise taxes on cigarettes higher than
 9 Mississippi's as of December 1, 1995, correct?
 10 A. Actually, that is correct, because there
 11 are 37 -- no, no, there are only 36, because
 12 Montana and Mississippi both have an excise tax of
 13 18 cents, so there would only be 37 entities with
 14 a higher tax. And one of those is the District of
 15 Columbia, so there are only 36 states that have a
 16 higher tax, one that has the same tax, and the
 17 District of Columbia which also has a higher tax.
 18 Q. So to restate, there are how many states
 19 that have excise taxes per package higher than
 20 Mississippi as of December 1, 1995?
 21 A. Based on this table, 36.
 22 Q. So there are 36 states that have a
 23 higher tax than Mississippi on cigarettes?
 24 A. If I count correctly.
 25 Q. Let's look next at Exhibit 36.

1 A. I see that.
 2 Q. Is that a Mississippi Department of --
 3 Mississippi State Department of Health Tobacco
 4 Prevention stamp do you know?
 5 A. We normally stamp in the receipt of
 6 documents into all of our programs, and this
 7 looks, in general, like the type that we use. So
 8 it certainly could well be.
 9 Q. Okay. Let's look at this table 4 which
 10 is on -- it's numbered page MSDH 004705.
 11 A. I have it.
 12 Q. But it's table 4 entitled "State Tobacco
 13 Excise Taxes 1990, 1992 and 1994, cents per 20
 14 pack as of June 30, 1994." Do you see that table?
 15 A. I do.
 16 Q. And it lists the names of the states,
 17 and then three columns for the years 1990, 1992,
 18 1994. Do you see that?
 19 A. I do.
 20 Q. Now, over in the right-hand side of the
 21 page, there's an entry that says "Allocation of
 22 State Tobacco Tax Revenues to Public Health and
 23 Tobacco Control Activities, 1992 and 1994." Do
 24 you see that?
 25 A. I do.

1 Q. Under that, there it reads "In 1992,
2 five states allocated a percentage of tobacco tax
3 revenues to public health," and then it lists,
4 California, Idaho, Massachusetts, Nebraska and
5 Utah, correct?
6 A. That's correct.
7 Q. Does not list Mississippi, does it?
8 A. No, it does not.
9 Q. Now, that means that Mississippi -- in
10 1992 Mississippi did not allocate a percentage of
11 its tobacco tax revenue to public health; is that
12 correct?
13 A. It's correct that Mississippi did not
14 specifically allocate.
15 Q. Pardon me?
16 A. It's correct that Mississippi did not
17 specifically allocate funds from tobacco tax
18 revenues identified as such to be used for tobacco
19 control activities as such.
20 Q. Correct.
21 A. It is not correct to conclude from that
22 that no tobacco tax revenues were used in
23 activities by the State of Mississippi,
24 particularly to the Department of Health for
25 tobacco control activities, because like most

1 Q. And then it lists those nine states,
2 California, Idaho, Massachusetts, Michigan,
3 Nebraska, New Jersey, Oregon, Pennsylvania, and
4 Washington, correct?
5 A. That's correct.
6 Q. So in 1994, Mississippi was not one of
7 the nine states that was specifically allocating a
8 percentage of tobacco tax revenues to support
9 public health activities, correct?
10 A. That is accurately stated.
11 MR. MUNSON: All right. I think, as
12 much as I hate to do this, I think I'm going to
13 ask that we stop for today and resume on Friday at
14 10:30.
15 A. Okay.
16 MR. MUNSON: If that's convenient with
17 you, and I'll work real hard to get through as
18 soon as we can. Fair enough?
19 MR. LEWIS: Okay.
20 (Time Noted: 4:25 p.m.)
21
22
23
24
25

1 state tax receipts, these revenues, I believe, go
2 into the general fund from which all state
3 agencies or most state agencies are funded.
4 Some of those dollars that ultimately
5 reach the Department of Health, although not
6 specifically designated as such may have been
7 funds that were derived from tobacco revenues.
8 Some of those may have been used for
9 expenditures related to tobacco control, even
10 though they're not labeled as such.
11 Q. But the fact remains that in 1992 there
12 were five states that specifically allocated a
13 percentage of tobacco tax revenues to public
14 health, correct?
15 A. That's correct.
16 Q. And Mississippi was not one of those
17 five states that specifically allocated a
18 percentage of tobacco tax revenues to public
19 health, correct?
20 A. That's also correct.
21 Q. Likewise, go down the page in 19 -- it
22 reads, "By 1994, nine states were allocating a
23 percentage of tobacco revenues to support public
24 health activities." Is that what it says?
25 A. That's what it says.

1 CERTIFICATE OF DEPONENT
2 I, F. E. Thompson, Jr., M.D., deponent
3 in the deposition taken in the herein styled and
4 numbered cause, certify that I have examined the
5 foregoing 191 pages as to the correctness thereof,
6 and that after reading said pages, I find them to
7 contain a full and true transcript of the
8 testimony as given by me on October 29, 1996, in
9 Jackson, Mississippi.

10 Subject to those corrections listed
11 below, if any, I find the transcript to be the
12 correct testimony I gave at the aforesaid time
13 and place.

14 Page Line Comments

15 _____
16 _____
17 _____
18 _____

19 This the _____ day of _____, 1996.

20 _____
21 State of Mississippi F. E. THOMPSON, JR.
22 County of _____
23 the _____ day of _____, 1996.
24 My Commission Expires: _____

25 _____ NOTARY PUBLIC

1 CERTIFICATE OF COURT REPORTER

2 I, Ginger H. Brooks Court Reporter and
3 Notary Public in and for the County of Hinds,
4 State of Mississippi, hereby certify that the
5 foregoing 191 pages contain a true and correct
6 transcript of the testimony of F. E. Thompson,
7 Jr., M.D., as taken by me in the aforementioned
8 matter at the time and place heretofore stated, as
9 taken by stenotype and later reduced to
10 typewritten form under my supervision by means of
11 computer-aided transcription.

12 I further certify that under the
13 authority vested in me by the State of Mississippi
14 that the witness was placed under oath by me to
15 truthfully answer all questions in this matter.

16 I further certify that I am not in the
17 employ of or related to any counsel or party in
18 this matter and have no interest, monetary or
19 otherwise, in the final outcome of this matter.

20 Witness my signature and seal this the
21 31st day of October, 1996.

22
23 ~~GINGER H. BROOKS~~
24 RPR, CSR - MS, OK, TX

24 My Commission Expires:

25 October 25, 1997